

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

PREAMBLE

1. Sections Affected

R4-20-101
R4-20-102
R4-20-102
R4-20-107
R4-20-107
R4-20-108
R4-20-109
R4-20-109
R4-20-110
R4-20-111
R4-20-111
Table I
R4-20-115

Rulemaking Action

Amend
Repeal
New Section
Repeal
New Section
Repeal
Repeal
New Section
New Section
Repeal
New Section
New Table
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-1673

Implementing statutes: A.R.S. §§ 32-1681(B), 32-1681(C), 32-1682, 32-1684, 32-1684.01, 41-1072 through 41-1078

3. The effective date of the rules:

January 15, 1999

4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Rulemaking Docket Opening: 3 A.A.R. 3745, December 26, 1997.

Notice of Rulemaking Docket Opening: 4 A.A.R. 2252, August 21, 1998.

Notice of Proposed Rulemaking: 4 A.A.R. 2290, August 28, 1998.

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Careen Heinze, Executive Director

Address: 1400 West Washington, Suite 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

6. An explanation of the rule, including the agency's reasons for initiating the rule:

A.R.S. §§ 41-1072 through 41-1078 require all state agencies, boards, and commissions that are subject to the Administrative Procedure Act to establish by rule, time-frames for licensing activities. The proposed rules amend the definitions, set forth the application requirements for licenses issued by the board, and establish time-frames for granting or denying the licenses.

7. A reference to any study the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

None.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of the state:

Not applicable.

9. The summary of the economic, small business, and consumer impact:

The Board will incur minimal costs to promulgate the rules and to notify interested parties of the new rules after the rules are approved. The Board should incur minimal costs for notification of completeness of an application. All applicants and the Board should benefit because of the increased consistency and efficiency in the application process. There are no other expected costs on other government entities, dispensing opticians, or the public.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable)

The Board made the following changes to the rules to make them clear, concise, and understandable:

R4-20-101

In the definition of application packet, "by the Board to be submitted to the Board by" was changed to "the Board requires to be submitted by".

In the definition of license, "the written" was changed to "a written".

In the definition of optical devices, "and" was deleted after "aids".

The definition of optometrist was changed to: "a person currently licensed in the practice of the profession of optometry as defined in A.R.S. § 32-1701 in any state of the United States."

In the definition of vision practitioner, "a physician licensed pursuant to A.R.S. § Title 32, Chapters 13 or 17" was changed to "a physician licensed in Arizona".

R4-20-102

The introductory sentence was rewritten to state: "A letter from each ophthalmologist, optometrist, or dispensing optician licensed in any state who provided direct supervision to the applicant during the applicant's apprenticeship that contains:"

R4-20-102(5)(b)

The Board changed "for whom the applicant is claiming experience" to "from whom the applicant is claiming experience".

R4-20-107

The Board changed the introductory sentence as follows: "An applicant for a dispensing optician's license by comity shall submit an application packet to the Board that contains:"

R4-20-107(1)(b)

The Board inserted "applicant's" between "The" and "dispensing".

R4-20-107(2)

The Board changed "which" to "that".

R4-20-108

The Board is repealing the provisions for a temporary license. Currently, the Board requires an applicant to complete a national examination before applying for a dispensing optician's license. An applicant is not permitted to take a state dispensing optician examination until the Board receives the scores from the national examination. After an applicant takes the state examination, the Board either grants or denies a regular license. Thus, the Board satisfies the statutory requirements for licensure and there is no need for a temporary license.

R4-20-111

In subsections (B)(1)(a) and (B)(1)(b), "state examination" was changed to "dispensing optician examination" to remain consistent with the language in R4-20-103.

To allow the Board to operate more efficiently, R4-20-111(B)(4) was added to state:

5. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.

In subsection (C), the Board inserted "the notice of" between "date of" and "administrative".

The Board changed subsection (C)(2) as follows: "The Board shall send a written notice approving the applicant to take an examination or granting a license to an applicant who meets the qualifications in A.R.S. §§ 32-1681 through 32-1687."

The Board changed subsection (C)(3) as follows: "The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 1681 through 1687."

In order to allow the Board to close inactive files, the Board added the following to subsection (D) and conformed subsequent numbering: "The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:

1. Supply the missing information under subsection (B)(2) or (C)(1); or

2. Take the dispensing optician examination."

The Board added the following subsection (E) and conformed subsequent renumbering: "An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date."

Table 1

The Board added a citation to rule and statutory authority for each type of approval granted by the Board.

R4-20-115

The Board deleted "as required in R4-20-109(A)(1)".

11. The summary of the principal comments and the agency response to them:
The Board did not receive any comments.
12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
None.
13. Incorporations by reference and their location in the rules:
None.
14. Was this rule previously adopted as an emergency rule?
No.
15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 20. BOARD OF DISPENSING OPTICIANS

ARTICLE 1. IN GENERAL

Section

R4-20-101.	Definitions
R4-20-102.	Original application for dispensing optician's license
R4-20-102.	<u>Application for a Dispensing Optician's License by Examination</u>
R4-20-107.	Renewal of dispensing optician's license
R4-20-107.	<u>Application for a Dispensing Optician's License by Comity</u>
R4-20-108.	Temporary License
R4-20-109.	Application for optical establishment license
R4-20-109.	Renewal of Dispensing Optician's License
R4-20-110.	<u>Application for an Optical Establishment License</u>
R4-20-111.	Renewal of Optical Establishment License
R4-20-111.	<u>Time-frames for License Approvals</u>
Table 1	<u>Time-frames (in days)</u>
R4-20-115.	<u>Renewal of Optical Establishment License</u>

ARTICLE 1. IN GENERAL

R4-20-101. Definitions

The following definitions apply in this Chapter unless otherwise specified:

1. "Applicant" means an individual requesting an initial or renewal license from the Board.
2. "Application packet" means the forms and additional information the Board requires to be submitted by an applicant or on the applicant's behalf.
3. "Comity" means the procedure for granting an Arizona license to an applicant who is already licensed as a dispensing optician in another state of the United States.
4. "Days" means calendar days.
- A5. "Laboratory experience" means work directly involved in the process of producing optical devices and does not include work which that is strictly clerical.
6. "License" means a written authorization issued by the Board to practice as a dispensing optician or operate an optical establishment in Arizona.

- B7. "Nationally recognized body on opticianry accreditation" is means the Commission on Opticianry Accreditation.
- E8. "Optical devices" means eyeglasses, contact lenses, prosthetic eyes, low-vision aids, other eyewear, or eyewear appurtenances or parts.
9. "Optometrist" means a person currently licensed in the practice of the profession of optometry as defined in A.R.S. § 32-1701 in any state of the United States.
10. "Physician" means a doctor currently licensed to practice allopathic or osteopathic medicine in any state of the United States.
- D11. "Vision practitioner" means a physician licensed pursuant to A.R.S. § Title 32, Chapters 13 or 17 in Arizona.
12. "Work week" means the period of time beginning on Sunday at 12:00 a.m. and ending the following Saturday at 11:59 p.m.

R4-20-102. ~~Original application for dispensing optician's license~~

A. Each application for license shall be accompanied by:

1. The fees prescribed by R4-20-112.
2. Three letters vouching for the applicant's good moral character.
3. Two letters from physicians, optometrists or other dispensing opticians vouching for the applicant's dispensing competency and the applicant's experience performing the duties of a dispensing optician.
4. A passport-size photograph of the applicant taken not more than six months next prior to the date of application.
5. A properly executed affidavit asserting that the information on the application is accurate, that the applicant has read the statutes and rules pertinent to the licensing of opticians and that the affiant is the applicant.

B. The applicant shall be a high school graduate or possess a General education Development certificate or other evidence of having obtained the equivalent of a high school education.

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- C. If an applicant is basing qualifications for licensure upon apprenticeship, the applicant shall submit letters from each employer for which he claims the experience time required by A.R.S. § 32-1683(5). If the applicant is unable to obtain letters from previous employers due to circumstances beyond his control and if the applicant submits other evidence satisfactory to the Board establishing his apprenticeship credentials, the requirement for letters may be reduced or waived.

R4-20-102. Application for a Dispensing Optician's License by Examination

At least 45 days before an examination date, an applicant for a dispensing optician's license by examination shall submit to the Board an application packet that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
 - a. The applicant's name, social security number, address, and telephone number;
 - b. The name and address of the applicant's employer at the time of application;
 - c. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(b), the name and address of each dispensing optician, physician, or optometrist for whom the applicant served as an apprentice for 3 of the 6 years immediately preceding the application date, and the 1st and last dates of each apprenticeship;
 - d. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(c), the name and address of the school from which the applicant graduated, dates of attendance, date of graduation, degree received, and the name and address of each dispensing optician for whom the applicant served as a dispensing optician apprentice for 1 of the 6 years immediately preceding the application date and the 1st and last dates of service. The applicant shall submit a photocopy of a diploma from the optical dispensing school;
 - e. If demonstrating technical skill and training under A.R.S. § 32-1683(5)(d), the name and address of each dispensing optician, physician, or optometrist for whom the applicant has worked for 3 of the 6 years immediately preceding the application date and the 1st and last dates of employment;
 - f. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude in any state;
 - g. A statement of whether the applicant has ever been denied an application or had a license suspended or revoked in any state; and
 - h. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the applicant's high school diploma or general educational diploma issued in any state;
3. Verification of passing a national Board examination in opticianry as evidenced by an original notice of examination results or original certificate of successful passage issued by the professional examination service that prepared the examination;
4. A letter from each of 3 individuals who are not family members, have known the applicant for 2 years immediately preceding the date of the application, and support the applicant's licensure;
5. A letter from each ophthalmologist, optometrist, or dispensing optician licensed in any state who provided

direct supervision to the applicant during the applicant's apprenticeship that contains:

- a. The individual's printed name, address, and telephone number; and
 - b. A statement that the applicant has either served as an apprentice or been employed as a dispensing optician by the ophthalmologist, optometrist, or dispensing optician for the time required in subsections (A)(1)(c), (A)(1)(d), or (A)(1)(e). If the applicant served as an apprentice or was employed as a dispensing optician by more than 1 ophthalmologist, optometrist, or dispensing optician, the applicant shall submit a letter from each ophthalmologist, optometrist, or dispensing optician from whom the applicant is claiming experience.
6. A passport photograph of the applicant no larger than 1 ½ x 2 inches and taken not more than 6 months before the date of application; and
 7. The fee required in R4-20-112.

R4-20-107. Renewal of dispensing optician's license

- A. A dispensing optician who desires to renew his license shall file a completed renewal application accompanied by the fee prescribed by R4-20-112.
- B. A renewal application received by the Board or postmarked on or before December 31 shall be considered timely for the forthcoming year.
- C. An optician who has not renewed the dispensing license within one year after its expiration may have the license reinstated by retaking and passing the practical examination and by paying the fee specified in R4-20-112(A)(5)(d) within five years after the date the license expired.

R4-20-107. Application for a Dispensing Optician's License by Comity

An applicant for a dispensing optician's license by comity shall submit an application packet to the Board that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
 - a. The applicant's name, social security number, address, and telephone number;
 - b. The applicant's dispensing optician license number and the state and date of licensure;
 - c. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude in any state;
 - d. A statement of whether the applicant has ever been denied an application or had a license suspended or revoked in any state; and
 - e. A sworn statement by the applicant verifying the truthfulness of the information provided by the applicant;
2. A photocopy of the unexpired license and a written statement, signed by an officer of the licensing Board that issued the license, that states the license is in good standing;
3. A photograph of the applicant no larger than 1 ½ x 2 inches and taken not more than 6 months before the date of application; and
4. The fee required in R4-20-112.

R4-20-108. Temporary License

An applicant for a temporary license shall fulfill all requirements in A.R.S. §§ 32-1682(A), 32-1683, and 32-1685(1), and shall complete successfully a practical examination in accordance with R4-20-104(C). An applicant who passes the practical examination

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to obtain a temporary license need not repeat the practical examination to qualify for a dispensing optician's license. A temporary licensee has the same rights and responsibilities as a regularly licensed optician except as provided by A.R.S. § 32-1681(C).

R4-20-109. Application for optical establishment license

An application for an optical establishment license shall be accompanied by the fee prescribed by R4-20-112 and shall contain:

1. The business name, address and telephone number of the optical establishment;
2. The name, address, title and telephone number of the person(s), corporation, company, partnership, firm, association or society desiring to operate the optical establishment. If the person is a partnership, this information shall be provided for each general partner. If the person is a corporation or association, this information shall be provided for each person who holds twenty percent or more of the voting stock of the corporation. If the chief executive officer of the corporation or at least one general partner of the partnership does not reside in Arizona, this information shall also be provided for the person who manages operations in Arizona;
3. The name, address and home telephone number of the licensed dispensing optician(s) who works at the optical establishment on a full time basis;
4. The name, address and home telephone number of all other licensed dispensing opticians, vision practitioners or optometrists who work at the establishment;
5. A list of the persons who supervise optical dispensing at the establishment.

R4-20-109. Renewal of Dispensing Optician's License

No later than December 31 of each year, an applicant for renewal of a dispensing optician's license shall submit to the Board the fee required by R4-20-112 and an application form, provided by the Board, signed and dated by the applicant, and notarized that contains:

1. The applicant's name, social security number, address, and telephone number;
2. The name, address, telephone number, and Arizona license number of the optical establishment at which the applicant is currently practicing as a dispensing optician; and
3. A statement that the information contained on the renewal application is true and correct.

R4-20-110. Application for an Optical Establishment License

An applicant for an optical establishment license shall submit an application packet to the Board that contains:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
 - a. The applicant's name, establishment name, establishment address, and telephone number. An application form shall be signed by the following:
 - i. If a sole proprietorship, the individual owning the optical establishment;
 - ii. If a corporation, each individual owning 20% or more of the voting stock in the corporation;
 - iii. If a partnership, the managing partner and a general partner;
 - iv. If a limited liability company, the designated manager, or if no manager is designated, any 2 members of the limited liability company;
 - b. The hours the establishment will be open to the public for business;

- c. If applicable, the name, business address, and telephone number of each licensed optical establishment currently being operated by the applicant in Arizona;
 - d. If a corporation, the name of the statutory agent, the corporation's officers, and the state of incorporation; and
 - e. The name, business address, telephone number, and license number of each licensed dispensing optician who is scheduled to work at the establishment for 32 hours or more;
2. If a corporation, articles of incorporation; and
 3. The fee required in R4-20-112.

R4-20-111. Renewal of optical establishment license

- A. An optical establishment license is renewable annually for the year July 1 through June 30, by submitting a completed renewal application accompanied by the fees prescribed by R4-20-112.
- B. A renewal application received by the Board or postmarked on or before June 30 shall be considered timely for the forthcoming July 1 through June 30 licensing year.

R4-20-111. Time-frames for License Approvals

- A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive review time-frame may not be extended by more than 25% of the overall time-frame.
- B. The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Board is set forth in Table 1.
 1. The administrative completeness review time-frame begins:
 - a. For approval to take a dispensing optician examination or for an optical establishment license, when the Board receives an application packet.
 - b. For approval or denial of a license by examination or license by comity, when the applicant takes the dispensing optician examination.
 2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
 3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
 4. If the Board grants a license or approval during the time provided to assess administrative completeness, the Board shall not issue a separate written notice of administrative completeness.
- C. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of the notice of administrative completeness.
 1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.

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2. The Board shall send a written notice approving the applicant to take an examination or granting a license to an applicant who meets the qualifications in A.R.S. §§ 32-1681 through 32-1687.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. §§ 32-1681 through 32-1687.
- D. The Board shall consider an application withdrawn if within 360 days from the application submission date the applicant fails to:
 1. Supply the missing information under subsection (B)(2) or (C)(1); or
 2. Take the dispensing optician examination.
- E. An applicant who does not wish an application withdrawn may request a denial in writing within 360 days from the application submission date.

- F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day shall be considered the time-frame's last day.

R4-20-115. Renewal of Optical Establishment License

No later than June 30 of each year, an applicant for renewal of an optical establishment license shall submit to the Board the fee required by R4-20-112 and an application form, provided by the Board that contains:

1. The name, address, and telephone number of the optical establishment;
2. The name and license number of each dispensing optician who is scheduled to work 32 hours or more each work week at the optical establishment; and
3. The applicant's signature and title.

Table 1. Time-frames (in days)

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Approval to Take a Dispensing Optician Examination (R4-20-102)</u>	<u>A.R.S. § 32-1682</u>	<u>90</u>	<u>30</u>	<u>60</u>
<u>License by Examination (R4-20-102)</u>	<u>A.R.S. § 32-1682;</u> <u>A.R.S. § 32-1684</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>License by Comity (R4-20-107)</u>	<u>A.R.S. § 1683</u>	<u>90</u>	<u>30</u>	<u>60</u>
<u>Optical Establishment License R4-20-110</u>	<u>A.R.S. § 32-1684.01</u>	<u>30</u>	<u>10</u>	<u>20</u>

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

**CHAPTER 33. BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION ADMINISTRATORS
AND ASSISTED LIVING FACILITY MANAGERS**

PREAMBLE

1. Sections Affected

R4-33-101
R4-33-101
R4-33-102
R4-33-102
R4-33-103
Table 1
R4-33-111
R4-33-112
R4-33-113
R4-33-201
R4-33-202
R4-33-203
R4-33-204
R4-33-205
R4-33-206
R4-33-207
R4-33-207
R4-33-208
R4-33-208
R4-33-209

Rulemaking Action

Renumber
Amend
Renumber
Amend
New Section
New Table
Repeal
Renumber
Renumber
Amend
Amend
Amend
Amend
Amend
Renumber
New Section
Renumber
Amend
Renumber

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R4-33-209	Amend
R4-33-210	Renumber
R4-33-210	Amend
R4-33-211	Repeal
R4-33-211	Renumber
R4-33-211	Amend
R4-33-212	Amend
R4-33-213	Repeal
R4-33-213	Renumber
R4-33-213	Amend
R4-33-214	Renumber
R4-33-214	Amend
R4-33-215	Repeal
R4-33-216	Renumber
Article 3	Renumber
Article 3	New Article
R4-33-301	Renumber
R4-33-301	New Section
R4-33-302	Renumber
R4-33-302	New Section
R4-33-303	Renumber
R4-33-303	New Section
R4-33-304	Renumber
R4-33-305	Renumber
R4-33-306	Renumber
R4-33-307	Renumber
R4-33-308	Renumber
R4-33-309	Renumber
R4-33-310	Renumber
R4-33-311	Renumber
R4-33-312	Renumber
Article 4	Renumber
R4-33-401	Renumber
R4-33-402	Renumber
R4-33-403	Renumber
R4-33-404	Renumber
R4-33-405	Renumber
R4-33-406	Renumber
R4-33-407	Renumber
R4-33-408	Renumber
R4-33-409	Renumber
R4-33-410	Renumber
R4-33-411	Renumber
R4-33-412	Renumber

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 36-446.03(A)

Implementing statute: A.R.S. §§ 36-446.03(B), (J), and (K); 36-446.04; 36-446.05; 36-446.06; 36-446.07; 36-446.12; 41-1062(B); 41-1072 *et seq.*; and 41-1092 *et seq.*

3. **The effective date of the rules:**

January 15, 1999

4. **A list of all previous notices appearing in the Register, addressing the final rule:**

Notice of Rulemaking Docket Opening: 3 A.A.R. 978, April 4, 1997.

Notice of Proposed Rulemaking: 4 A.A.R. 1042, May 8, 1998.

5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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6. An explanation of the rule, including the agency's reasons for initiating the rule:

The current rules regarding nursing care institution administrators are being amended and expanded to ensure conformity with current statutory authority and rulewriting standards. In addition, the title of the Board and the rules are being changed by replacing "Adult Care Home Managers" with "Assisted Living Facility Managers" to reflect a recent statutory change. Definitions used in the rules are being clarified and additional definitions are being added. Licensing time-frames are being established for all licensing activities of the Board as required by A.R.S. § 41-1072 et seq. Application requirements are being clarified and made more specific. Applicant qualifications are also being significantly revised, with a minimum of a baccalaureate degree required of all applicants. Continuing education requirements are being revised to reflect changes in the means by which credit may be obtained, particularly by capping the number of correspondence courses to 20 hours per renewal period. A new Article 3 is also being added to prescribe the requirements of the administrator-in-training program, preceptor qualifications and responsibilities, and the standards and duties for administrators-in-training. The adult care home managers, now assisted living facility managers, article and rules are being renumbered as a result of the new article.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying the study, any analysis of the study, and other supporting material.

Not applicable.

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

9. The summary of the economic, small business and consumer impact:

Cost impacts for the Board will be minimal and include the cost of the rule consultant assisting with this rule promulgation. These rules essentially codify the current Board practices but will result in some additional mailing costs for the Board as a result of the new licensing time-frame process. With the adoption of time-frames for its licensing activities, there is a remote possibility of the Board having to refund a licensing fee in the event it fails to meet its time-frames. These costs are expected to be minimal or less.

It is anticipated that there may be an increased cost for some applicants for licensing because of an increase in the passing score for licensing. Some individuals may have to take the exam more than once or may be unable to pass. Each examination costs \$100. The benefit of the increased passing score may be assurance of consistently high quality individuals entering the profession. At present, applicants must either have a B.A. in Health Care Administration or a closely related area, have a B.A. in any area and complete an administrator-in-training program, or complete some combination of education and training that the Board determines is substantially equivalent to the formal education. The new rules will require that all applicants have a baccalaureate degree, at a minimum; and, regardless of the baccalaureate degree held, complete an administrator-in-training program, unless the applicant holds a masters degree in health care administration or long-term care administration. This will moderately to substantially increase the cost for the occasional applicant who, in the past, did not have a baccalaureate degree and who would utilize the education/training combination alternative; and, concomitantly, will increase revenues to those educational institutions that this applicant must attend. This alternative was eliminated to ensure an educational baseline for all applicants and to promote better-educated, highly qualified applicants in a field that has become increasingly complex and that holds the responsibility for the lives and safety of vulnerable older adults. The requirement to complete an administrator-in-training program will result in an increased cost of \$375 for the Health Care Administration B.A. holders, including a \$100 application fee and \$275 in administrator-in-training program advisory committee costs. The benefit of this rule change is to assure uniform training of administrators with the expectation that they would be both better trained and provide better quality of service.

The cost impact on individual licensed administrators as a result of this rule package may be moderate, particularly in the area of continuing education where correspondence courses to meet the 50 hour biannual requirement will be capped at 20 hours. Currently, all 50 may be taken by correspondence. This means that licensees will need to obtain 30 hours of training in the more traditional seminar or college class setting. It is estimated that costs would increase by \$45 per hour or \$1350 over the 2-year period (based upon \$25 per hour for correspondence courses versus \$70 per hour for seminars and college classes). There will also now be an increase in costs for administrators desiring inactive status. Currently, no continuing education hours are required to go inactive. These rules will require that administrators be up-to-date with their continuing education prior to going on inactive status. The number of hours will be prorated depending on the amount of time the licensee was active under the licensee's current license. Potentially, a licensee desiring to go on inactive status just before the time for license renewal could incur the costs of the full 50 hours of required continuing education. With an estimate of \$70 per credit hour, this cost impact could be as much as \$3500.

In the administrator-in-training program, there will be a minimal cost for preceptor training for current licensees to become preceptors. However, they would receive the benefit of having an administrator-in-training to provide on-site assistance.

The cost of promulgating these rules will have a minimal impact on the Governor's Regulatory Review Council and the Secretary of State's Office. Minimal or no impacts are expected for any other agencies or political subdivisions of the state. Similarly, little or no cost impacts would be expected for consumers.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

A number of corrections to punctuation and minor form revisions were made, most of which are reflected in the noted changes.

In the Table of Contents, replace "ADULT CARE HOME" by "ASSISTED LIVING FACILITY".

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In the Table of Contents after R4-33-211, insert "~~R4-33-211. Renumbered~~".

In the Table of Contents after R4-33-212, insert "~~R4-33-213. Renumbered~~".

In the Table of Contents after R4-33-213, insert "~~R4-33-215. Renumbered~~".

In the Table of Contents, strike "ADULT CARE HOME" and insert "ASSISTED LIVING FACILITY" in the title of Article 4.

At R4-33-101, 1st line, delete "the following terms mean".

At R4-33-101(1), strike "accredited" and insert "authorized", and delete "the" before "Western".

At R4-33-101(2), replace "for" with "of" before "training".

At A.A.C. R4-33-101(3), revise to read as follows:

"AIT Program" means ~~a~~ an NAB-approved training program lasting not less than 20 weeks nor more than 52 weeks, at 40 hours per week, six months or more conducted as an educational experience in a licensed nursing care institution. ~~Six months means a period equivalent to 40 hours per week for 25 weeks.~~

At R4-33-101(4), strike "certified through" and insert "having evidence of completing"

At R4-33-101(6), strike "where the" and insert "during which an", strike "which" and insert "that", strike "utilized" and insert "used", insert "either" before "continuing", replace "and" with "or", and insert "credit" before "required".

At R4-33-101(7), replace "licensee" with "nursing care institution administrator", replace "license and" with "license," and replace "order and is" with "order, and".

At R4-33-101(9), delete "who".

At R4-33-101(10), replace "professional advisory committee" with "group", replace "which" with "that", and hyphenate "NAB approved".

At R4-33-101(11)(a), strike "pursuant" and insert "under".

At R4-33-101(11)(b), insert a comma after "program", hyphenate "health care", and insert "or" at the end.

At R4-33-101(12), strike "program" and insert "syllabus", and strike "Adult Care Home" and insert "Assisted Living Facility".

At R4-33-102(A), insert a comma after "vice-president", and strike "a" before "secretary".

At R4-33-102(B), replace "shall be" by "are".

At R4-33-102(B)(1), insert "Board" before "meetings", and strike "of the Board".

At R4-33-102(B)(3), strike "be responsible for the" and insert "prepare and maintain"

At R4-33-102(C), strike "The" before "Board".

At R4-33-103, replace "Time Frames" with "Time-frames".

At R4-33-103(B), delete "all".

At R4-33-103(B)(1), delete "required", and replace "is" with "and documents are".

At R4-33-103(B)(3), replace "information do not contain all of the components required by statute or this Chapter," with "documents are not completed within the time provided to respond to the deficiency notice,".

At R4-33-103(C)(1), replace "one" with "1" and replace "provides" with "mails".

At R4-33-103(C)(2), replace "or" with "and".

At R4-33-103(C)(3), delete "the" before "requested".

At R4-33-103(C)(4), replace "or" with "and".

At R4-33-103(D), capitalize "section," replace "which is neither" with "that is not", replace "nor" by "or", insert a comma after "Sundays", insert "State" before "holidays", and replace "commence" with "begin".

In the table of time-frames, insert the following statutory references for each type of license, respectively: "A.R.S. § 36-446.04(A)", "A.R.S. § 36-446.07(E)", "A.R.S. § 36-446.06", "A.R.S. § 36-446.07(E)", "A.R.S. § 36-446.04", "A.R.S. § 36-446.04(B)", "A.R.S. § 36-446.07(F)", "A.R.S. § 36-446.07(F)", and "A.R.S. § 36-446.06".

At R4-33-201(A)(2), replace "Designation as to type" with "Type" and insert a comma after "employers".

At R4-33-201(B), delete "such".

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At R4-33-201(D), strike "his civil rights have been restored, or an equivalent written statement or document," and insert "the applicant is in compliance with all court imposed requirements," insert "The evidence shall be" before "issued", and strike "the" before "Board".

At R4-33-201(E)(9), insert "and if so," after "administrator," and delete "and whether the applicant has ever had a license suspended or revoked".

Insert a new R4-33-201(E)(10) that reads: "Whether the applicant has ever had an administrator license suspended or revoked:".

Renumber the subparagraphs that follow.

At R4-33-201(E), delete "13. Whether the applicant has any physical or mental impairments that would interfere with the performance of administrator duties;".

At R4-33-201(E)(18)(a), insert "the GED" before "exam" and insert "was" after.

At R4-33-201(E)(19), insert "each" before "employer" and insert a comma after "supervisor".

At R4-33-201(E)(22), strike "prior to" and insert "before".

At R4-33-201(F), delete "and/or", replace "needed" with "or both", and change "demonstrates" to "demonstrate".

At R4-33-201(G), strike "the" before "prescribed".

At R4-33-202(A), insert "as a nursing care institution administrator" following "licensing".

At R4-33-202(A)(1), delete "percentage".

At R4-33-202(A)(2), delete "the" and "state".

At R4-33-202(B), delete "only", and replace "pass" with "retake only".

At R4-33-202(C), strike "Examinations" and insert "The Board", strike "be administered" and insert "administer examinations", strike "such", and replace "noticed" with "specified".

At R4-33-202(D), strike "a period of".

At R4-33-203, strike "upon" before "submission".

At R4-33-203(I), Replace "In lieu" with "Instead", and replace "an" with "the".

At R4-33-203(2), strike "an" and insert "the" before "applicant", strike "prior to" and insert "before", add a comma after "January", insert "a passing score shall be" after "1990," strike "Subsequent to" and insert "After", delete "a percentage score of", replace "An" by "The", and insert a comma after "secretary".

At R4-33-204(A), replace "who" by "for licensing as a nursing care institution administrator who completes the requirement of R4-33-201 and".

At R4-33-204(A)(1), strike "Applicant has" and insert "Has".

At R4-33-204(A)(2), strike "Applicant holds" and insert "Holds".

At R4-33-206(A), delete "shall", change "begin" to "begins", and change "end" to "ends".

At R4-33-206(B), delete "shall".

At R4-33-206(C), strike "pursuant to" and insert "under" in 2 places, and strike "license" before "year".

At R4-33-206(D), insert "whose license has expired because of failure to renew in accordance with subsection C" after "person", delete "relicensure" and insert "renew if", and delete "provided".

At R4-33-206(D)(1), insert "person's" before "license", and strike "pursuant to" and insert "under".

At R4-33-206(D)(2), strike "the" before "expiration", and strike "his" and insert "the".

At R4-33-206(D)(3), strike "applicant has paid" and insert "person pays", and strike "fee" and insert "fees".

At R4-33-206(D)(4), strike "applicant has met" and insert "person meets".

At R4-33-207, insert "A. The Board shall place a person's license on inactive status if:", replace "A. A" by "1. The", insert "is" before "currently", add a semicolon after "Arizona", delete "may request in writing that the Board place the person's license on inactive status if" and insert "2. Notifies the Board in writing of the wish to be placed on inactive status; and", insert "3. Meets" before "the continuing", and delete "have been met".

At R4-33-207, insert "B. The Board shall provide the licensee written confirmation of inactive status."

At R4-33-207, insert "C." before "To resume", replace "six" by "6", and replace "prior to" by "before".

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At R4-33-207, delete "B.", insert "D. The Board shall grant the request to resume active status if the requirements of subsection C are met.", delete "a" before "written", replace "confirming inactive status" by "granting", and replace "the request" by "active status".

At R4-33-208(A)(1), strike "An" and insert "The following standards of conduct apply to an", strike "pursuant" and insert "under", and delete "shall comply with the".

At R4-33-208(A)(2)(a), insert "a" before "nursing" and strike "institutions" and insert "institution".

At R4-33-208(A)(2)(b), strike "his" and insert "the".

At R4-33-208(A)(2)(c), strike "the" and insert "a" before "nursing", strike the 1st "such", strike "where" and insert "if", and strike the final "such" and insert "the".

At R4-33-208(A)(2)(e), insert "or" before "employees", strike "or staff", insert "disability," after "religion,".

At R4-33-208(A)(2)(f), strike "and" and insert a period. Create a new (g), capitalize "shall", delete "else", delete "falsifying information or documents" and insert "misrepresenting that person's qualifications, education, experience, or affiliations."

Reletter remaining subsections to conform.

At R4-33-208(A)(2)(h) through (l), amend to include "Shall not" language to conform with the rest of the subsection.

At R4-33-208(A)(2)(j), insert "institution" before "administrator".

At R4-33-208(B), replace "pursuant to" by "under" and insert "or renewal." at the end of the subsection.

At R4-33-209(A), strike "such" and insert "the", and strike "his" and insert "the party's".

At R4-33-209(A) and (E), amend by changing the reference to 15 days to 30 days to conform with the requirements of the Uniform Administrative Appeals Procedures.

At R4-33-209(B), strike "ten", strike "such" and insert "the", insert a period after "motion", strike "or" and insert "The Board".

At R4-33-209(C)(1), strike "whereby" and insert "that deprived", strike "was deprived" and insert comma at end (and at the end of each of the subsections).

At R4-33-209(C)(3), strike "which" and insert "that".

At R4-33-209(C)(4), strike "which" and insert "that".

At R4-33-209(C)(6), insert "and" at the end.

At R4-33-209(D), strike "and" and insert a comma, strike "set forth" and insert "listed", strike "those" and "so specified", and insert "the specified" before "matters".

At R4-33-209(E), strike "such", and strike "therefor" and insert "on which it is granted".

At R4-33-209(F), amend by changing the 10 day time limit to 15 days to conform with the requirements of the Uniform Administrative Appeals Procedures, strike "such", change the comma after "affidavits" to a period, strike "which" and insert "This", and strike "an additional period not exceeding".

At R4-33-209(G), delete "the decision is", delete "or" after "unavailable", replace "such" with "a", and insert "for rehearing" after "request".

At R4-33-209(H), strike "such" and insert "the", strike "and" after "health" and insert "or", and insert a comma after "unnecessary".

At R4-33-209(I), strike "shall be defined as" and insert "have the meanings".

At R4-33-210, change the section title by changing "Licenses" to "License".

At R4-33-210(A), delete "licensee's request" and insert "former licensee", insert "a" before "former" in the last sentence, and replace "licensees who have been" with "licensee who was".

At R4-33-210(B), delete "Upon" and insert "Following", delete "application" and insert "a request", insert "Board shall require the" before "former", delete "Upon denial of" and insert "If a request for", insert "is denied" after "restoration", delete "applicant" and insert "former licensee", and delete "pursuant to" and insert "under".

At R4-33-211, amend the title by striking "Licenses" and inserting "License".

At R4-33-211(A), strike "Every person licensed as a nursing care institution administrator" and insert "A licensee", strike "such" and insert "the licensee's", strike "the" before "current", and strike "his" and insert "the licensee's".

At R4-33-211(B), delete "Each person holding a license from the Board shall file a current mailing address with the Board and", and insert "A licensee", move "notify the Board" to after "shall", and in 2 places delete the "and" after "name" and insert "or".

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At R4-33-211(C), replace "Each" by "A", delete "that he or she becomes the duly" and insert "the licensee is", delete "home" and insert "care institution", and delete "that such".

At R4-33-212, amend the title by striking "Licenses" and inserting "License".

At R4-33-212(A), insert "institution" after "care", and strike "the" and insert "an".

At R4-33-212(A)(1), strike the comma after "R4-33-201" and insert "and", and strike the "and" after "R4-33-203" and insert "or".

At R4-33-212(A)(4), strike "prior to" and insert "before", and insert "for a temporary license" after "applying".

At R4-33-212(C), insert a new 1st sentence that reads "A temporary license is valid for 150 days.", strike "Prior to the" and insert "Before", and strike "150 day period" and insert "temporary license".

At R4-33-213(A), strike "Any" and insert "A", strike "has been" and insert "is", and insert "of denial" after "notice".

At R4-33-213(B), amend by changing the statutory citation to A.R.S. § 41-1092.03 in order to conform with the Uniform Administrative Appeals Procedures, delete "has been" and insert "is", delete ". Such person" and insert "and", and delete "pursuant" and insert "under".

At R4-33-214(A), delete "Each" and insert "A", insert "initially" before "licensed", and strike "license" before "year".

At R4-33-214(B), delete "A" and insert "No later than June 1, a", strike "not later than June 1" and insert "required under R4-33-206", add a comma and delete "or" before "letter", add a comma after "attendance", delete "a" before "grade", and delete "provided by" and insert "from the provider of".

At R4-33-214(C), strike "prior to" and insert "during".

At R4-33-214(D), strike "All" and insert "To be eligible for credit, a", and strike "programs" and insert "program".

At R4-33-214(D)(5), insert "and" at the end of the line.

At R4-33-214(E)(4), replace "per" with "for each", replace "are approved for" with "that a", delete "certified", make "preceptors" singular, delete "who are currently", change "training" to "trains", replace "percent" with "%", replace "related to the" with "from serving as a", and change "preceptorship" to "preceptor".

At R4-33-214(F), insert "continuing education", after "approved", delete "only" before "receive" and insert "only" before "once".

At R4-33-214(G), replace "related to" with "from".

At R4-33-214(H)(6), strike "where possible".

At R4-33-301(A), replace "which shall be" with "that is", replace "both 6 and 12 month" with "20 to 52 week", and replace "percent" with "%".

At R4-33-301(B), replace "approve" with "endorse".

At R4-33-301(C), replace "initiated" with "completed".

At R4-33-301(D)(1), replace "Reviewing" with "Review", insert "program" before "advisory committee", and change the period to a semicolon.

At R4-33-301(D)(2), replace "Reviewing" with "Review", and change the period to a semicolon.

At R4-33-301(D)(3), replace "Making" with "Make", replace "for purposes of introduction and confirmation of" with "to introduce the site evaluator, confirm", delete "to" before "answer" and "schedule", and replace the period with a semicolon.

At R4-33-301(D)(4), replace "Reviewing" with "Review", delete "hours", replace "prior to" with "before", insert "site" before "visit", and replace the period with a semicolon.

At R4-33-301(D)(5), replace "Touring" with "Tour", replace "reviewing" with "review", replace "interviewing" with "interview", and replace the period with a semicolon.

At R4-33-301(D)(6), replace "Completing" with "Complete", replace "reviewing" with "review", and replace "center" with "facility".

At R4-33-301(D)(6)(a), replace "or" with "and".

At R4-33-301(D)(6)(b), replace "AIT/Preceptor Guide Book and instruction" with "NAB AIT/preceptor domains of practice manual and instructions".

At R4-33-301(D)(6)(c), replace "Guide Book" with "NAB AIT/preceptor domains of practice manual".

At R4-33-301(D)(6)(g), replace "logs or" with "logs, and", and replace "tests or" with "tests, and".

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At R4-33-301(D)(6)(h), delete "of the", and change "programs" to "program".

At R4-33-301(D)(6)(k), insert "and" before "the purpose".

At R4-33-301(D)(6)(m), replace "they" with "the variations".

At R4-33-301(D)(7), replace "Scheduling" with "Schedule", replace "when" with "if", delete "the" before "request", insert a comma after "preceptor", insert "program" before "advisory committee", and replace "committee." with "committee; and".

At R4-33-301(D)(8), replace "Conducting" with "Conduct".

At R4-33-301(E), insert "site" before "program evaluator", and replace "administrator which" with "AIT that".

At R4-33-301(E)(1), replace "approved" by "reviewed".

At R4-33-301(E)(2), delete "hours".

At R4-33-301(E)(5), delete "certification of", delete "at the completion of the training program", and insert "when the training program is finished" after "AIT".

At R4-33-301(F), insert "at the beginning of the training" after "prepared", replace "an approved" with "the", and replace "approval" with "review".

At R4-33-301(G)(1), replace "training" with "to train", and replace "and" with "or".

At R4-33-301(G)(2), replace "training" by "to train", and replace "a" with "the preceptor's".

At R4-33-301(H), replace "The" by "A", insert "in June and December" after "reports", and insert a comma after "training".

At R4-33-301(I), delete "certified", and insert "the AIT program ceases and" before "the following shall occur".

At R4-33-301(I)(1), delete "the administrator" and insert "AIT", replace "the" before "preceptor" with "original", and delete "off on" after "sign".

At R4-33-301(I)(2), delete "the" before "new", replace "have" with "has", and replace "inclusive of" with "including".

At R4-33-301(I)(3), replace "five" with "5".

At R4-33-302(A)(1), revise to read: "Be an administrator of record with a current nursing care institution administrator's license in good standing in Arizona with no disciplinary actions taken against the preceptor's license in the last 3 years, excluding letters of concern".

At R4-33-302(A)(2), replace "A preceptor shall be" with "Be", replace "long-term" with "nursing", insert "institution" after "care", strike "in the field", move "as an administrator" to after "experience", and replace the period with a semicolon.

At R4-33-302(A)(3), replace "A preceptor shall comply" with "Comply", and replace the period with "; and".

At R4-33-302(A)(4), replace "A preceptor shall complete" with "Complete".

At R4-33-302(B), delete "be responsible for the following".

At R4-33-302(B)(1), replace "Implementation of the" with "Implement the AIT", and delete "for the AIT".

At R4-33-302(B)(2), replace "Interviewing" with "Interview", replace "assure" with "ensure", replace "responsibilities and to" with "responsibilities, and", insert "and approval by" after "submission to", and replace "committee for approval and" with "committee. The training plan".

At R4-33-302(B)(2)(c), insert "name of the" before "training", and insert "and" before "its".

At R4-33-302(B)(2)(e), replace "maintenance and others." with "maintenance, and other,"

At R4-33-302(B)(3), replace "Providing" with "Provide".

At R4-33-302(B)(4), replace "Alerting" with "Alert", insert "and" after "experience", and change "soliciting" to "solicit".

At R4-33-302(B)(5), replace "Meeting" with "Meet", insert "at least" after "on", replace "regular" with "weekly", insert a comma after "areas", and delete "to reflect change".

At R4-33-302(B)(6), replace "Providing" with "Provide", hyphenate "test taking", and replace "in preparation" with "to prepare".

At R4-33-302(B)(7), replace "Providing" with "Provide".

At R4-33-302(B)(8), replace "Reporting" with "Report", move "on a monthly basis" to after "Report", and insert "any concerns or problems" after "committee".

At R4-33-302(B)(9), replace "Modifying" with "Modify".

At R4-33-302(B)(10), replace "Incorporating" with "Incorporate".

At R4-33-302(B)(11), replace "the preceptor shall fill out the" with "prepare a", and replace "committee who" by "committee, which".

At R4-33-302(B)(11)(c), replace "facility" with "place of training".

At R4-33-302(B)(11)(g), change "preceptors" to "preceptor's".

At R4-33-302(B)(11)(h), replace "home" with "care institution".

At R4-33-302(C), replace "off" with "absent".

At R4-33-303(D), replace "The" with "An", delete "hours", and delete "then".

At R4-33-303(D)(2), replace "site address" with "facility name, address,".

At R4-33-303(D)(10), replace "listing" with "list".

At R4-33-303(F), replace "their approved" with "the", and replace "with the approval of" with "if reviewed by".

At R4-33-303(G), replace "be responsible for developing" with "develop".

At R4-33-303(G)(1), delete "the AIT shall".

At R4-33-303(G)(2) replace "An AIT shall increase" with "Increase", and insert a comma after "rehabilitative".

At R4-33-303(G)(3), replace "An AIT shall develop" with "Develop", and insert a comma after "ill".

At R4-33-303(G)(4), replace "The AIT shall become" with "Become", delete "so as", and replace "as well as" with "and".

At R4-33-303(G)(5), replace "An AIT shall complete" with "Complete".

At R4-33-303(G)(6), replace "The AIT shall communicate" with "Communicate".

At R4-33-303(G)(7), replace "The AIT shall evaluate" with "Evaluate".

At R4-33-303(G)(8), replace "The AIT shall apply" with "Apply" and add a comma after "principles".

11. A summary of the principal comments and the agency response to them:

General Comments

Written comments were received during the formal comment period from 4 members of the regulated community. No oral comments were received at the public hearing for the proposed rules.

ISSUE: One commentator submitted a number of inquiries, the 1st of which was the reason for the revision of existing rules.

EVALUATION: It has been many years since the existing rules have been revised. They are somewhat out-of-date and need to be amended to conform with current rulewriting standards. More specific reasons for the rulemaking may be found at Section I, above.

ISSUE: One commentator remarked that there was no reference in the rules that guarantees due process for an administrator when a complaint is filed. The commentator suggested that it is necessary to include due process protection specifically in the rules.

EVALUATION: The Board disagrees. The due process rights of a licensed administrator against whom a complaint is filed are protected by the Uniform Administrative Appeals Procedures, the statutes governing nursing care institution administrators, and both the State and Federal Constitutions.

Specific Issues Raised by the Public During the Rulemaking Process

a. R4-33-101(3)

ISSUE: It was suggested that the definition for "AIT Program" be revised to clarify the allowable time period for completion of this training program. It was suggested that the program be not less than 20 weeks nor more than 52 weeks.

EVALUATION: The Board agrees with the suggestion and has revised the rule to reflect the changed time period.

b. R4-33-101(7)

ISSUE: One commentator suggested that the definition of "good standing" should not include while a person is under investigation as there should be no penalty of any kind while a person is still "innocent".

EVALUATION: The Board disagrees as no actual penalty is assessed against a licensee during an investigatory time period. There is no impact on the practitioner's license nor is there any civil penalty.

c. R4-33-204

ISSUE: One commentator inquired as to the reason for changing the degree major required for licensure as the commentator felt that the existing rule was sufficiently restrictive.

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EVALUATION: The Board disagrees for the reason that it is necessary to upgrade the knowledge and education base for nursing care institution administrators. The existing educational requirements for eligibility for licensure are no longer sufficient to prepare applicants for practicing as the administrators of a nursing care institutions. Federal HCFA proposals reflect similar educational standards. The Board is aligning with the recommendations of HCFA and other states. The educational changes are also a recommendation of the National Board of Examiners for Nursing Care Administrators.

d. R4-33-208(A)(1)

ISSUE: One commentor suggested that the phrase "unprofessional conduct" needs to be more clearly defined in the rules.

EVALUATION: The Board disagrees as the phrase is already defined in statute at A.R.S. § 36-446(8).

e. R4-33-208(A)(2)(c)

ISSUE: Once commentor expressed concern about an administrator being subject to sanctions for the activities and business arrangements of a facility's owners. The commentor inquired as to whether it is the responsibility of the administrator to report owners or refuse to engage in company policies that are not contrary to law.

EVALUATION: The Board disagrees and believes it is the professional responsibility of a licensed administrator to avoid the referenced types of activities. Simply because certain activities are not necessarily "illegal" for a facility owner, and many of the referenced activities may constitute a violation of federal and state law, does not make those activities appropriate conduct for an administrator. Federal law prohibits payment of referral fees for placement of Medicare/Medicaid patients by owners or administrators. It is the ethical duty of an administrator to report this activity.

f. R4-33-208(A)(2)(l)

ISSUE: One commentor inquired as to whether "retaliation" included bringing a lawsuit against a complainant or "taking necessary legal action to protect one's rights".

EVALUATION: The Board believes that the protection of "good faith" use of the complaint system is essential to avoid the chilling effect of potential or actual action, "retaliation", by an administrator. However, misuse or abuse of the complaint system by someone acting maliciously does not protect the complainant from action by an administrator.

g. R4-33-214(G)

ISSUE: Two commentors objected to limiting the continuing education credits permitted for correspondence courses during the two-year license term because they are an important alternative to seminars, are challenging and include testing, and limit the time off from work to attend continuing education.

EVALUATION: The Board agrees with these comments and is doubling the allowable number of credits from correspondence courses during a license term to 20 hours.

h. R4-33-301(D)(1) and (7)

ISSUE: A commentor suggested that, for clarification, the word "program" be added before "advisory committee".

EVALUATION: The Board agrees and has made the revision to the rule.

i. R4-33-301(E)

ISSUE: A commentor suggested that, for clarification, the word "site" be added before "program evaluator".

EVALUATION: The Board agrees and has made the revision to the rule.

j. R4-33-301(I)

ISSUE: One commentor suggested that the effect of a change of a preceptor be clarified by adding language that the AIT program ceases upon the change.

EVALUATION: The Board agrees and has made the revision to the rule.

k. R4-33-301(I)(1)

ISSUE: One commentor suggested that, for clarification, "AIT" be added before "administrator" in the 1st sentence and that "original" be added before "preceptor" in the 2nd sentence.

EVALUATION: The Board agrees and has made the revision to the rule and deleted "administrator" in the 1st sentence.

l. R4-33-301(I)(2)

ISSUE: One commentor suggested that, for clarification, "requested" be added before "preceptor's" in the 2nd sentence.

EVALUATION: The Board initially agreed to make the revision to the rule; however, GRRC staff advised that it was not appropriate form and recommended that it not be made.

m. R4-33-302(A)(1)

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ISSUE: One commentor suggested that the preceptor requirements be revised to include that a preceptor be an administrator of record and that "good standing" includes a record with no disciplinary action against the licensee within the past 3 years, excluding letters of concern.

EVALUATION: The Board agrees with these changes in the preceptor's qualification standards and made the revision to the rule.

n. R4-33-302(A)(2)

ISSUE: One commentor suggested that the preceptor qualification be revised to provide that the preceptor shall be "actively licensed as a nursing home administrator for 2 out of the past 3 years".

EVALUATION: The Board disagrees with the proposed change for the reason that the rule is already sufficiently clear.

o. R4-33-302(B)(5)

ISSUE: One commentor suggested that "regular" be changed to "weekly" for meetings with an AIT and preceptor to evaluate the AIT's performance.

EVALUATION: The Board agrees and has made the revision to the rule. In addition, to avoid the word "weekly" being construed as limiting more frequent meetings, the phrase "at least" is added after the word "on".

p. R4-33-302(B)(8)

ISSUE: One commentor suggested that the reporting required of a preceptor regarding an AIT be further clarified by adding "any concerns or problems" to the rule.

EVALUATION: The board agrees and has made the revision to the rule.

q. R4-33-303

ISSUE: One commentor suggested making "facility" plural.

EVALUATION: The Board declines to implement this change as the singular includes the plural.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.

13. Incorporations by reference and their location in the rules:
None.

14. Was this rule previously adopted as an emergency rule?
No.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

**CHAPTER 33. BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION ADMINISTRATORS
AND ASSISTED LIVING FACILITY MANAGERS**

ARTICLE 1. GENERAL

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R4-33-203. Licensure by Endorsement Reciprocity

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R4-33-213 R4-33-214. Denial of License or Renewal of License

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**ARTICLE 3. ADMINISTRATOR-IN-TRAINING
PROGRAM**

Section

R4-33-301. Administrator-in-Training Program Requirements

R4-33-302. Preceptor Qualifications

R4-33-303. Administrator in Training

**ARTICLE 4. ASSISTED LIVING FACILITY ADULT-
CARE HOME MANAGER CERTIFICATION**

Section

R4-33-401 R4-33-301. Training Program Requirements

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R4-33-405 R4-33-305. Fees
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R4-33-407 R4-33-307. Standards of Conduct; Suspension or Revocation
R4-33-408 R4-33-308. Criteria for Continuing Education
R4-33-409 R4-33-309. Display of Certificate
R4-33-410 R4-33-310. Temporary Certificates
R4-33-411 R4-33-311. Denial of Certificate
R4-33-412 R4-33-312. Rehearing or Review of Decision

ARTICLE 1. GENERAL

R4-33-101 R4-33-112. Definitions

- A.** Words and phrases defined in A.R.S. § 36-446 have the same meaning when used in this Chapter.
- B.** In this Article, unless the context otherwise specified, requires:
1. "Accredited" means authorized accredited by the North Central Association of Colleges and Secondary Schools, or other recognized regional accrediting association New England Association of Schools and Colleges, Middle States Association of Colleges and Secondary Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools or Western Association of Schools and Colleges.
 2. "Administrator in training" or "AIT" means is a person who is taking an NAB-approved AIT program of training to be licensed as an administrator for a nursing care institution.
 3. "AIT Program" means a an NAB-approved training program lasting not less than 20 weeks nor more than 52 weeks, at 40 hours per week, six months or more conducted as an educational experience in a licensed nursing care institution. Six months means a period equivalent to 40 hours per week for 25 weeks.
 4. "ACHCA Certified" means having evidence of completing certified through the Professional Certification Program administered by the American College of Health Care Administrators.
 5. "AzACHCA" means the Arizona chapter of the American College of Health Care Administrators.
 6. "Contact hour" means an hour during which an where the administrator or manager is physically present at an instructional institutional activity that which is to be used utilized for either continuing education credit or initial training credit required for adult care home managers.
 7. "Program of study" means a total educational program offered by an accredited institution covering all or a portion of the subject matter in R4-33-204.A.3.
 8. "Good standing" means that a nursing care institution administrator is the holder of a current and valid license, not subject to any disciplinary action or consent order, and not currently under investigation for alleged unprofessional conduct.
 9. "NAB" means the National Association of Board of Examiners for Nursing Home Administrators.
 9. "Preceptor" means a practicing nursing care institution administrator who undertakes the role of teacher through the tutorial process, has taken a board-approved preceptor training course, and helps to develop a new professional in the field of long-term care administration.

107. "Program Advisory Committee" means the group comprised of practicing nursing care administrators that provides oversight to AITs and ensures the application of uniform training standards and guidelines outlined in the NAB-approved AIT Program.
118. "Qualified instructor" means a person who meets 1 one or more of the following criteria:
 - a. A registered nurse, licensed under pursuant to A.R.S. Title 32, Chapter 15;
 - b. An instructor employed by an accredited junior college, university program, or health care institution to teach health-care related courses; or
 - c. A certified adult care home manager who has had at least two years' experience in Arizona providing care to clients in an adult care home, a registered residential care home, or a licensed care facility; or
 - d. A person or entity who possesses a combination of education and training equivalent to the qualifications listed above.
129. "Training program" means an educational syllabus program approved by the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Adult Care Home Managers pursuant to in accordance with the requirements of A.R.S. §§ 36-448.11 and 36-446.04(A)(2) and (B)(2).
9. "Weighted scale score" means the scoring mechanism based on degree of difficulty of the national examination which was approved by the National Board of Examiners for Nursing Care Institution Administrators (NAB) in conjunction with the Professional Examination Service (PES).

R4-33-102 R4-33-113. Board Officers officers

- A.** At its 1st annual meeting, the Board shall will elect from among its membership a president, vice-president, and a secretary-treasurer.
- B.** The functions, duties and limitations of these officers are are as follows:
1. President, The the president is the chief officer of the Board. The president shall call and preside at all Board meetings of the Board. The president shall act as chief officer of the board have all powers consistent with his office, appoint committees, and or delegate such authority to other members of the Board as needed.
 2. Vice-president, The the vice-president shall preside at Board meetings in the absence of the president and may exercise all the powers and duties of the president in the absence of the president.
 3. Secretary-treasurer, The the secretary-treasurer shall prepare and maintain be responsible for the minutes of all meetings, monitor the attendance of members, and keep account of all monies that are collected and disbursed by the Board.
- C.** The Board officers shall serve for a term of 1 one year. No officer may serve more than 2 two consecutive terms.

R4-33-103. Time-frames for Licenses, Certifications, and Approvals

- A.** For each type of license, certification, approval, or renewal of license or certification issued by the Board, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1.
- B.** For each type of license, certification, approval, or renewal of license or certification issued by the Board, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins on the date the

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Board receives an application and required documents and information.

1. If the application and documents are not administratively complete, the Board shall send to an applicant a deficiency notice.
 - a. The deficiency notice shall state each deficiency and the information needed to complete the application and documents.
 - b. Within the time provided in Table 1 for response to the deficiency notice, beginning on the mailing date of the deficiency notice, the applicant shall submit to the Board the missing information specified in the deficiency notice. The time-frame for the Board to finish the administrative completeness review is suspended from the date the Board mails the deficiency notice to the applicant until the date the Board receives the missing information.
 2. If the application is administratively complete, the Board shall send a written notice of administrative completeness to the applicant.
 3. If the application and submitted documents are not completed within the time provided to respond to the deficiency notice, the Board shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn.
- C.** For each type of license, certification, approval, or renewal of license or certification issued by the Board, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the date the Board sends written notice of administrative completeness to the applicant.
1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information. Within the time provided in Table 1 for response to a comprehensive written request for additional information, beginning on the mailing date of the comprehensive written request for additional information, the applicant shall submit to the Board the requested additional information. The time-frame for the Board to finish the substantive review is suspended from the date the Board mails the comprehensive written request for additional information to the applicant until the Board receives the requested additional information.
 2. The Board shall issue a written notice of denial of license or renewal of license if the Board determines that the applicant does not meet all of the substantive criteria required by statute and this Chapter for licensing, certification, approval, or renewal of license or certification.
 3. The Board shall issue a written notice informing the applicant that the application is deemed withdrawn if the applicant does not submit requested additional information within the time-frame in Table 1.
 4. If the applicant meets all of the substantive criteria required by statute and this Chapter for license, certification, approval, or renewal of license or certification, the Board shall issue the license, certification, approval, or renewal of license or certification to the applicant.
- D.** In computing any period of time prescribed in this Section, the day of the act, event or default after which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday or a state holiday, in which event the period runs until the end of the next day that is not Saturday, Sunday, or a state holiday. The computation shall include intermediate Saturdays, Sundays, and state holidays. The time period shall begin on the date of personal service, date shown as received on a certified mail receipt, or postmark date.

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Table 1. Time-frames
(in days)

Type of License	Overall Time-Frame	Administrative Review Time-Frame	Time to Respond to Deficiency Notice	Substantive Review Time-Frame	Time to Respond to Request for Additional Information
Initial License R4-33-201 A.R.S. § 36-446.04(A)	120	15	90	105	50
Renewal of License R4-33-206 A.R.S. § 36-446.07(E)	75	30	15	45	15
Temporary License R4-33-212 A.R.S. § 36-446.06	120	15	90	105	60
Continuing Education Program Approval R4-33-214 A.R.S. § 36-446.07(E)	60	15	30	45	15
Administrator-in-Training Program Approval R4-33-301 A.R.S. § 36-446.04	60	15	30	45	15
Initial Certification R4-33-403 A.R.S. § 36-446.04(B)	120	15	90	105	60
Renewal of Certification R4-33-406 A.R.S. § 36-446.07(F)	75	30	15	45	15
Approval of Continuing Education Program R4-33-408 A.R.S. § 36-446.07(F)	60	15	30	45	15
Temporary Certification R4-33-410 A.R.S. § 36-446.06	120	15	90	105	60

R4-33-111. Legal authority

These regulations are promulgated pursuant to Title 36, Chapter 4, Article 6, Arizona Revised Statutes for the purpose of administering the Nursing Care Institution Administrators' Licensing Act.

**ARTICLE 2. NURSING CARE INSTITUTION
ADMINISTRATOR LICENSING**

R4-33-201. Initial Application

A. A person who desires to be licensed Application forms for licensure as a nursing care institution administrator shall submit to may be obtained from the Board an application on a form provided by the Board which provides the following information.:

1. Full name;
2. Type of license for which application is being submitted; and
3. Sworn statement that applicant has answered all questions on all forms related to the application truthfully and has authorized educational and other institutions, employers, and governmental agencies to provide to the Board any information requested by the Board.

B. The applicant shall arrange to have 2 ~~two~~ persons who are unrelated to the applicant ~~him~~ and not in the applicant's ~~his~~ employment complete "Moral Character Certification" forms and return them directly to the Board. The certification shall contain the applicant's full name, type of examination for which the applicant is applying to sit, a certification that person is personally acquainted with the applicant, the number of years of acquaintance, the belief that the applicant is of appropriate moral character and suitability, and a recommendation of the applicant to the Board.

C. The applicant shall ~~arrange to~~ have a licensed physician complete a "Medical Certification" form and return it directly to the Board. The certification shall contain the applicant's full name; type of examination for which the applicant is applying to sit; a certification by the physician that the applicant is in good health, free from contagious diseases, and absent any physical or mental impairments that would interfere with the performance of administrator duties; the number of years the physician has provided care to the applicant; the date the applicant was examined; other remarks; and the signature, full name, address and license number of the physician.

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- D. An applicant who has been convicted of a felony shall submit, with the application, evidence that the applicant is in compliance with all court imposed requirements, his civil rights have been restored, or an equivalent written statement or document. The evidence shall be issued by an appropriate court, the Board of Parole, or equivalent agency. The evidence shall provide information on the specific type of felony offense and the related circumstances.
- E. The applicant shall complete and submit a properly sworn, and notarized, and completed personal data sheet form prescribed by the Board which provides for general information about the applicant, including his educational and employment records the following information:
1. The name as the applicant wants it to appear on the certificate;
 2. The full name of the applicant;
 3. The home address of the applicant;
 4. The home telephone number of the applicant;
 5. The applicant's date of birth;
 6. The applicant's social security number;
 7. The sex of the applicant;
 8. The work telephone number of the applicant;
 9. Whether the applicant is presently serving as an administrator, and if so, the address of the institution;
 10. Whether the applicant has ever had an administrator license suspended or revoked;
 11. Whether the applicant has ever had a nursing care institution administrator license denied;
 12. Whether the applicant is currently licensed as an administrator in any other state, including name of state, license number, and expiration date;
 13. Whether the applicant's administrator license has ever been suspended or revoked;
 14. The names of the 2 persons to whom moral character certificates were sent;
 15. The name and address of the physician to whom the medical certificate was sent;
 16. Whether the applicant has been convicted for a violation of any law other than a minor traffic violation, and, if so, the date, place, and nature of the conviction;
 17. The state of current licensure, date license received, and the license number, if the applicant wishes to apply for licensure by reciprocity;
 18. The educational record of the applicant, including:
 - a. Name of the high school attended by applicant, its location, highest grade completed, whether the applicant received a diploma and year, and if not, GED certificate number and date issued and where the GED exam was taken;
 - b. Undergraduate education, including name and location of college or university, course of study, years attended, and degree and date received;
 - c. Post-graduate education, including name and location of college or university, course of study, years attended, and degree and date received;
 - d. Field training or short courses, including name and location of institution or agency, dates attended, course pursued, and date completed;
 - e. Memberships in professional or honorary societies and dates of membership;
 - f. Any special honors received and dates;
 - g. Professional licenses or certificates held, including type, license number, licensing authority, state, and dates;
 - h. Articles or books published, including name of publication, publisher, and copyright year or date of publication;
19. The applicant's employment record for the last 10 years, including name and address of each employer, position held, immediate supervisor, and description of duties;
20. A description of applicant's participation in health care institution association offices and activities;
21. A description of the applicant's involvement in health-related community service activities; and,
22. The applicant shall attach to the personal data sheet form a finished, unmounted color photograph in color of the applicant's himself showing his head and shoulders. The photograph shall not be less than 2 1/2 two and one-half inches nor more than 3 three inches square and shall have been taken within 6 six months before prior to the date of application.
- F. The applicant shall provide to the Board transcripts, AIT Program completion or ACHCA certification, a certificate of AIT program completion, or both, which demonstrate that as applicable demonstrating the requirements of R4-33-204(A) have been met, or the applicant shall provide evidence of education, training, and experience if applying under R4-33-204(B).
- G. An applicant shall submit the The completed application forms and the prescribed fees must be received by to the Board at least 45 days before the date of the next regularly scheduled examination.
- H. An applicant shall appear before the Board upon its request.
- R4-33-202. Licensure by Examination**
- A. To be eligible for licensing as a nursing care institution administrator, an applicant shall obtain the following:
1. A score of 70% on a written national examination of NAB;
 2. A score of 80% on a written examination based on Arizona statutes and rules.
- A. The examination shall consist of:
1. A written national examination adopted by the National Association of Board of Examiners for Nursing Home Administrators based on common principles of nursing care institution administration. An applicant shall meet a weighted scale score of 113 on the national examination;
 2. A written state examination based on Arizona statutes and rules pertaining to the licensure of nursing care institutions and the licensure of nursing care institution administrators. An applicant shall meet a minimum score of 75%.
- B. An applicant who passes 1 of the examinations in subsection (A) but fails the other shall be required to retake only the examination failed to be eligible for licensing.
- CB. The Board shall administer examinations Examinations will be administered not less than twice each year at such times and places in Arizona as may be specified by the Board.
- C. The score sheets of the examination will not disclose the name of any applicant. They will be identified by a number assigned by the staff member administering the examination.
- D. An applicant who fails either part of failing the examination a third 2 times shall not be eligible to take another examination for a period of 11 months from the date of the last examination, unless, subsequent to his last examination, he has satisfactorily completed a course of study approved by the Board. An applicant who fails the examination 3 times may not take another examination until the applicant successfully completes an AIT program.

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- E.** The score sheets and record of the examination will be filed with the Board and retained for at least four years.

R4-33-203. Licensure by Endorsement Reciprocity

The Board, in its discretion and otherwise subject to the law pertaining to the licensing of nursing care institution administrators, shall will issue a nursing care institution administrator license upon application and payment of the prescribed fee and upon submission of evidence satisfactory to the Board that the an applicant:

1. Has met the requirements specified in R4-33-201. Instead of meeting the requirements of R4-33-201(F), the applicant may submit evidence of ACHCA certification.
2. Holds a valid and current license as a nursing care institution administrator for a state or territory which was obtained by successfully passing the NAB examination required by R4-33-202(A)(1) a national examination which is determined by the Board to be substantially equivalent to the written national examination endorsed by the National Association of Boards of Examiners for Nursing Home Administrators. If the an applicant took had taken the national examination before prior to January, 1990, a passing score shall be a raw score of 105 or better shall constitute a passing score. After Subsequent to January 1990, a passing score shall be 70% based on a weighted scale score of 113. The applicant shall arrange to have the licensing agency of the state in which the applicant is licensed complete and directly return to the Board a certification on a form provided by the Board which provides the name of the secretary of the state board providing the certification, the full name of the applicant, the applicant's license number, date of licensing, expiration date of the license, the national examination taken by the applicant and the applicant's score, a statement that the applicant is fit and proper for licensing, the signature of the secretary, and the agency name and address.
3. Has arranged to have the licensing agency of the state in which he the applicant is licensed complete a "certification" form and return it directly to the Board.
3. 4. Has met or exceeded a score of 80 75% on the written examination administered by the Board in accordance with R4-33-202(A)(2) which is based on Arizona statutes and rules pertaining to the licensure of nursing care institutions and the licensure of nursing care institution administrators.

R4-33-204. Qualifications for Initial License by Examination

- A.** An applicant for licensing as a nursing care institution administrator who completes the requirement of R4-33-201 and meets either may apply for initial license by examination pursuant to A.R.S. § 36-446.04(A)(2) and R4-33-115 if one of the following requirements is met shall be eligible to take the licensure examination:

1. Has Applicant has successfully completed a Board-approved AIT program and holds a minimum of a baccalaureate degree from an accredited college or university; or
2. Holds a minimum of a masters degree in health care administration or long-term care administration from an accredited college or university. Applicant is ACHCA certified; or
3. Applicant has at least a baccalaureate degree in an area related to health care administration from an accredited college or university. The curriculum shall include a

minimum of 60 semester hours of health instruction from an accredited college or university which includes at least six semester hours in each of five of the following seven general subject areas: gerontology, management, psychology, sociology, therapeutic and supportive long-term care and services, health science and environmental health and safety, and food and nutrition. No course may be counted for credit in more than one subject area.

- B.** An applicant who possesses a combination of education and training in each of the areas listed in paragraph (A)(3) which is determined by the Board to be substantially equivalent to the required formal instruction will qualify to take the license examination.

R4-33-205. Fees

The Board shall charge and collect the following fees:

- 1A.** Application and examination for licensure, \$350.00.; \$100 of this fee is nonrefundable.
 - a 1.** Re-administration of national examination, \$150.00.;
 - b 2.** Re-administration of state examination, \$100.00.;
- 2B.** Issuance of license, up to \$240.00, prorated monthly.;
- 3C.** Biennial renewal of license, \$240.00.;
- 4D.** Biennial renewal of inactive license, \$100.00.;
- 5E.** Temporary license fee, \$250.00.;
- 6F.** Duplicate license fee, \$25.00.;
- 7G.** Penalty fee for late renewal, \$50.00.;
- 8H.** Certification of license status, \$10.00.; and
- 9I.** Board review of sponsored continuing education programs, \$20.00.

R4-33-206. Renewal Application

- A.** A license year begins July 1 and ends June 30.
- B.** All licenses, except temporary, expire at midnight on June 30 of each even-numbered year. Temporary licenses expire at midnight on the date designated on the license.
- C.** A The licensee shall submit an application for renewal of license, accompanied by the prescribed fee and evidence of completion of 50 hours of continuing education credit under R4-33-214 pursuant to R4-33-216, not later than June 1. A licensee who received an his original license on or after January 1 and before June 30 of the renewal same license year shall need only submit evidence of completion of 10 ten hours of continuing education credit under R4-33-214 pursuant to R4-33-216.
- D.** A person whose license has expired because of failure to renew in accordance with subsection C An individual formerly licensed in Arizona may apply for renewal if of his provided:
 1. The person's license was not revoked under pursuant to A.R.S. § 36-446.07.;
 2. No more than 30 days have lapsed elapsed since the expiration of the his license.;
 3. The person pays He has paid the prescribed fees fee; and;
 4. The person meets He has met the applicable continuing education requirements.

R4-33-207. Inactive Status

- A.** The Board shall place a person's license on inactive status if the licensee:
1. Is currently licensed in good standing in Arizona;
 2. Notifies the Board in writing of the wish to be placed on inactive status; and

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3. Meets the continuing education requirements. These continuing education requirements may be prorated, based upon the commencement of the renewal period.
- B. The Board shall provide the licensee written confirmation of inactive status.
- C. To resume active licensure status, the licensee shall complete the 25 hours of continuing education credits required in A.R.S. § 36-446.07(H) within 6 months before making written request to the Board for resumption of active licensure status.
- D. The Board shall grant the request to resume active status if the requirements of subsection C are met. The Board shall send written notice to the licensee granting or denying active status. If denied, the licensee shall have 15 days from the date of receipt of the notice to file a request for hearing with the Board, appealing the denial. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 and Article 10.

R4-33-208 R4-33-207. Standards of Conduct; Disciplinary Action Suspension or Revocation

- A. The following standards of conduct apply to an An administrator licensed under pursuant to this Article is responsible for the proper operation of any nursing care institution which he administers as well as for his own proper conduct. The following standards of conduct shall be adhered to:
1. An administrator shall not engage in unprofessional conduct. An applicant for an administrator's license shall not practice fraud, deceit, or misrepresentation in obtaining his license.
 2. An administrator:
 - a. Shall be familiar with the federal and state laws and regulations applicable to operation of a nursing care institution institutions.
 - b. Shall not be addicted to or dependent upon the use of narcotics or other drugs, including alcohol, which interferes with the performance of the his duties as a nursing care institution administrator.
 - c. Shall not wilfully permit a the nursing care institution or its owners, officers, or employees to solicit, offer, or receive any premium, rebate, or other valuable consideration in connection with the furnishing of items or services to patients of the institution or for referral of such patients to another person or place if for the furnishing of such items or services where the resulting economic benefit is not directly passed on to the such patients.
 - d. Shall not wilfully permit the unauthorized disclosure of information relating to a patient or a patient's his records.
 - e. Shall not discriminate against among patients, or employees, or staff on account the basis of race, sex, age, religion, disability, or national origin.
 - f. Shall not misrepresent qualifications, education, experience or affiliations.
 - g. Shall not aid or abet anyone in misrepresenting that person's qualifications, education, experience, or affiliations.
 - h. Shall not defend, support, or ignore unethical conduct perpetrated by employees, owners, or peers.
 - i. Shall not engage in any conduct or practice contrary to recognized community standards or ethics of a nursing care institution administrator or any conduct or practice which does or might constitute incompetence, gross negligence, repeated negligence or negligence that might constitute a danger

- to the health, welfare or safety of the patient or the public.
- j. Shall not procure or attempt by fraud or misrepresentation to procure a license or renewal of a license to practice as a nursing care institution administrator.
- k. Shall not violate a formal order, condition of probation, or stipulation issued by the Board.
- l. Shall not commit an act of sexual abuse, misconduct, harassment, or exploitation.
- m. Shall not retaliate against any person who reports in good faith to the Board alleged incompetence, illegal, or unethical conduct of any practitioner.

- B. Final judgment of conviction for a felony or any offense involving moral turpitude shall be grounds for suspension or revocation of license. Final judgment or conviction for a felony or any offense involving moral turpitude, or direct or indirect elder abuse shall be grounds for disciplinary action under A.R.S. § 36-446.07 et seq., or denial of license application or renewal.
- C. An administrator who has violated any provision the provisions of this Article as an applicant for a license, renewal of license, or reinstatement of a license or in his capacity as an administrator is shall be subject to discipline in accordance with the provisions of A.R.S. § 36-446.07 relating to suspension or revocation.

R4-33-209 R4-33-208. Rehearing or Review of Decision

- A. Except as provided in subsection (G), any party in a contested case before the Board who is aggrieved by a decision rendered in the such case may file with the Board, not later than 30 ten days after service of the decision, a written motion for rehearing or review of the decision which specifies the particular grounds on which it is based therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at the party's his last known residence or place of business.
- B. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 ten days after service of the such motion. The Board or may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. The Board may grant a A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party or any order or abuse of discretion that deprived whereby the moving party was deprived of a fair hearing.
 2. Misconduct of the Board or its hearing officer or the prevailing party.
 3. Accident or surprise that which could not have been prevented by ordinary prudence.
 4. Newly discovered material evidence that which could not with reasonable diligence have been discovered and produced at the original hearing.
 5. Excessive or insufficient penalties.
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, and.
 7. That the decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, and on all or part of the

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issues, for any of the reasons listed set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only the specified those matters so specified.

- E. Not later than 30 ten days after a decision is rendered, the Board may, on its own initiative, order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds on which it is granted therefor.
- F. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 15 ten days after such service, serve opposing affidavits. This which period may be extended for an additional period not exceeding 20 twenty days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- G. Except as provided in subsection (H), a decision shall be final when rendered if further review is unavailable, upon expiration of the time for filing a request for rehearing, or upon denial of a request for rehearing, whichever is later. If a rehearing is granted, the decision shall be stayed until affirmed, amended, or reversed.
- HG. If in a particular decision the Board makes specific findings that the immediate effectiveness of the such decision is necessary for the immediate preservation of the public peace, health, or and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, the decision shall be effective when issued. Any any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Board's final decisions.
- I H. For purposes of this Section, the terms "contested case" and "party" have the meanings shall be defined as provided in A.R.S. § 41-1001.
- I. To the extent that the provisions of this rule are in conflict with the statutory provisions of the Board, such statutory provisions shall govern.

R4-33-210R4-33-209. Restoration of Revoked License

- A. No earlier than 12 months from the date of revocation, a former licensee may file a request for license restoration. The former licensee shall submit evidence satisfactory to the Board that the basis for revocation has been removed. The former licensee shall meet all of the requirements of R4-33-201, R4-33-202 and R4-33-204. The requirements of R4-33-201(D) shall be applicable to a former licensee who was convicted of a felony. A license may be restored at any time after revocation by the Board upon submission of evidence satisfactory to the Board that the former licensee has removed the disability. The requirements of R4-33-115(D) will be applicable to former licensees who have been convicted of a felony.
- B. Following receipt of a request for license restoration, the Board shall require the former licensee to appear before the Board and provide evidence that all the requirements of R4-33-210(A) have been met. If a request for license restoration is denied, the former licensee may request a hearing under

A.R.S. § 41-1065. Upon receipt for restoration of a license, the former licensee will be given a formal hearing unless the Board determines that restoration of the license is adequately supported by information supplied with the request.

- C. The former licensee's request shall meet all of the requirements of R4-33-117(A)(1) and (4).

R4-33-211R4-33-210. Display of License and Board Notification Licenses

- A. A licensee Every person licensed as a nursing care institution administrator shall display the licensee's such certificate of licensure and the current renewal certificate in a conspicuous place in the licensee's his office or place of business or employment.
- B. A licensee shall notify the Board, within 30 days, of any change of name or mailing address, providing both former and new name or address.
- C. A licensee shall notify the Board, within 30 days, each time that the licensee is appointed administrator of a nursing care institution and each time an appointment terminates. Each notification shall include the name and address of the facility or facilities involved and the dates of appointment or termination.

R4-33-211. Renumbered

R4-33-212. Temporary License Licenses

- A. To qualify for a temporary license to fill a nursing care institution administrator position, an the applicant shall submit the application required in R4-33-201 and provide evidence demonstrate all of the following as applicable:
1. That the applicant meets Meet or exceeds exceed the requirements specified in R4-33-201 and R4-33-203, or and R4-33-204.
 2. That an Submit a letter from the governing body or owner of the nursing care institution indicating that the administrator's position is available and that the applicant will be engaged in the capacity of administrator if the applicant is successful in obtaining a temporary license;
 3. That the applicant has not Not have held an Arizona temporary license within the past 3 three years; and
 4. That the applicant has not Not have failed a state or national examination within 1 one year before prior to applying for a temporary license.
- B. At the Board's request an An applicant may be asked to shall appear or be available by telephone for an oral interview with before the Board.
- C. A temporary license is valid for 150 days. Before Prior to the expiration of the temporary license 150 day period, the temporary licensee shall become licensed under the terms of A.R.S. § 36-446.04 and this Article or discontinue as administrator of the nursing care institution.

R4-33-213. Renumbered

R4-33-213R4-33-214. Denial of License or Renewal of License

- A. A Any person who is has been denied a license or denied the right to take an examination may file a request for an informal interview will be notified as provided in A.R.S. § 41-1009. Such person may file a request for a hearing before the Board within 15 days after receipt of the notice of denial.
- B. A person who is denied a license or renewal of license shall be notified in writing and may file a request for a hearing before the Board under A.R.S. § 41-1092.03.

R4-33-215. Renumbered

R4-33-214 R4-33-216. Criteria for Continuing Education

- A. A licensee shall obtain 50 Twenty-five hours of continuing education credit per renewal period year ~~shall be required~~ for renewal of license except that, if an administrator is initially licensed on or after January 1 and before June 30 of the renewal same license year, only 10 ten such hours shall will be required for that 1st renewal period.
- B. No later than June 1, a licensee shall submit evidence Evidence of attendance at continuing education programs shall be submitted with the application for renewal of license required under R4-33-206 not later than June 1. Evidence of attendance includes a certificate, letter of attendance, or grade report from the provider of the continuing education program.
- C. Licensees shall complete continuing Continuing education programs ~~shall be completed~~ between June 1 and May 31, during prior to the renewal period.
- D. To be eligible for credit, a AIT continuing education program shall programs must be approved by the Board and shall must be in at least 1 one of the following subject areas:
 1. Statutes and regulations on environmental health and safety (OSHA),
 2. Principles of management,
 3. Psychology and principles of patient care,
 4. Personal and social care,
 5. Therapeutic and supportive care and services in long-term care, and
 6. Community health and social resources.
- E. Continuing education credits shall will be awarded as follows:
 1. Programs of study: must contain at least 25 contact hours and will receive 25 credit hours.
 - 1.2. Seminars or workshops: — 1 one hour of credit for each contact hour.
 - 2.3. College accredited courses: — 15 13 credit hours for each semester hour.
 - 3.4. Annual meetings of approved national health care organizations and annual state association meetings affiliated with national health care organizations: — three credit hours for each annual meeting attended up to a maximum of six hours 1/2 hour credit for each business meeting.
 - 4.5. Two continuing education credits for each month that an AIT preceptor trains an AIT. A preceptor shall receive a maximum of 50% of required continuing education hours during a renewal period from serving as a preceptor. State association meetings affiliated with approved national health care organizations: — one-half hour credit for each meeting up to a maximum of three hours.
- F. A licensee who participates as an instructor in an approved continuing education program shall receive the same credit as a student. The licensee may receive continuing education credit for instructing the same approved program only once during a renewal period.
- G. A licensee shall receive credit for no more than 20 hours of required continuing education during a renewal period from correspondence courses. The Board may disapprove requests for approval which have not been submitted at least 45 days prior to the commencement of a program.
- H. Requests for approval of a continuing education program shall may be submitted by individuals or sponsors in writing and shall contain at least the following information:
 1. Title of program;
 2. Sponsor: name, address and contact person;

3. Date, time and place of program;
4. Content and applicability to nursing home administration;
5. Qualification of instructors;
6. Number of contact hours; include a time schedule of events where possible and an agenda with specific times for instruction, breaks and meals; and
7. If an accredited college course, the number of semester credits available.

ARTICLE 3. ADMINISTRATOR IN TRAINING PROGRAMS

R4-33-301. Administrator in Training Program Requirements

- A. An AIT program shall have a program advisory committee that is responsible for all aspects of the training program. The committee shall conduct at least 2 on-site visits during each training period. For 20 to 52 week approved training periods, the 2 site visits shall be conducted upon completion of 30 and 80% of the program requirements. Additional site visits may be conducted upon request of the AIT, the preceptor or the committee.
- B. The program advisory committee shall endorse a preceptor for each AIT. A preceptor shall provide training to no more than 1 AIT at a time.
- C. The program advisory committee shall appoint a site evaluator for each preceptor/administrator training relationship who shall conduct the site visits. A site visit check list shall be completed by the site evaluator during each site visit and reviewed with the preceptor and the AIT if program discrepancies or concerns are identified.
- D. A site evaluator shall:
 1. Review the AIT application as approved by the program advisory committee;
 2. Review the individualized training programs as approved by the advisory committee;
 3. Make initial contact by telephone with the AIT and the preceptor to introduce the site evaluator, confirm receipt of the NAB AIT/preceptor domains of practice manual, answer any questions, and schedule the 1st site visit;
 4. Review all monthly reports, daily logs, and other information received from the AIT or preceptor before the 1st site visit;
 5. Tour the facility with the AIT, review the AIT's daily log, and interview the AIT and preceptor, both individually and together, during the site visit;
 6. Complete the site visit report and review the findings with the AIT and preceptor before leaving the facility. The site visit report shall address the following:
 - a. Whether the evaluator met with the AIT and preceptor, individually and together;
 - b. Whether the NAB AIT/preceptor domains of practice manual and instructions were reviewed with both the AIT and preceptor and any comments;
 - c. Whether the AIT and preceptor appeared to understand their respective roles and responsibilities as outlined in the NAB AIT/preceptor domains of practice manual;
 - d. Whether the facility was toured with the AIT and preceptor, and any comments;
 - e. Examples of staff and resident interaction with the AIT, the apparent position occupied by the AIT in the facility, and whether the AIT appeared to know and recognize staff and residents;

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- f. Whether the evaluator met with any departments with which the AIT had worked and any comments made by department heads regarding AIT's learning experience;
- g. Which written reports, time logs, and other program materials were reviewed, whether the monthly reports were timely and complete, and what other reports, tests, and workshops had been completed by the AIT;
- h. Which approved AIT training program is being used as a primary resource and what supplementary texts or other materials are being used;
- i. What concerns were expressed or questions asked during the interview with the AIT and preceptor;
- j. The frequency and duration of meeting between the AIT and preceptor, scheduled or unscheduled;
- k. The locations outside the facility where AIT has been assigned or visited, and the purpose, length and supervision provided;
- l. The community meetings or events attended by the AIT as part of the program, including any AzA-CHCA meeting or peer group sessions;
- m. How closely the actual training program has adhered to the proposed training schedule, any variations and whether the variations have negatively affected the program;
- n. An overall assessment of the training program and its progress and whether there are any apparent problems that may prevent the AIT from completing the program as planned; and,
- o. Any additional comments;
- 7. Schedule additional site visits if a significant change occurs in the program outline, if there is a change in either the AIT or preceptor, or upon request of the AIT, preceptor, or program advisory committee; and
- 8. Conduct telephone interviews with the AIT upon receipt of the monthly progress report to validate the learning experience and respond to any questions or concerns.
- E. A site program evaluator shall maintain a file on each assigned AIT that includes the following:
 - 1. The AIT application and attachments reviewed by the advisory committee;
 - 2. A copy of each monthly report and daily log;
 - 3. A copy of each site visit report;
 - 4. Copies of any correspondence and interim reports; and,
 - 5. Copy of the program completion from the NAB AIT/preceptor domains of practice manual, completed by the preceptor and co-signed by the AIT when the training program is finished.
- F. An individualized training plan shall be prepared at the beginning of the training by the preceptor and the AIT. Any changes to the training plan shall be submitted, in writing, to the program evaluator, for review by the advisory committee.
- G. A training program shall not permit the following:
 - 1. A preceptor to train the preceptor's employer or supervisor; or
 - 2. A preceptor to train the preceptor's spouse, child, parent, brother, sister, 1st or 2nd cousin, niece, nephew, uncle, or aunt.
- H. A program advisory committee shall provide semiannual reports in June and December to the Board which include the names of preceptors trained, number of administrators in training, number of administrators in training who have completed training, and the names of facilities where training is being provided.

- I. If a preceptor is no longer able or willing to be a preceptor or the AIT chooses to change location or preceptor, the AIT program ceases and the following shall occur:
 - 1. The original preceptor and AIT shall write a letter to the program advisory committee stating the reasons for the change and the last date of training. The letter shall be signed by both the AIT and original preceptor. The AIT shall complete and sign the last monthly report.
 - 2. The AIT and new preceptor shall submit a letter of application for continuance to the program advisory committee stating that the preceptor or training location has changed. The new preceptor shall complete and submit the preceptor portion of the application form, including the preceptor's credentials.
 - 3. At the next meeting of the program advisory committee following receipt of the letter, the committee shall review the documentation and send written notification to the AIT and the preceptor of the committee's decision and program continuance date within 5 working days after the meeting.
 - 4. Change requests may be completed in advance to allow for a smooth and timely transition.

R4-33-302. Preceptor Qualifications and Responsibilities

- A. A preceptor shall have the following qualifications:
 - 1. Be an administrator of record with a current nursing care institution administrator's license in good standing in Arizona with no disciplinary actions taken against the preceptor's license in the last 3 years, excluding letters of concern;
 - 2. Be a full-time practicing nursing care institution administrator with a minimum of 2 years of experience as an administrator within the last 3 years;
 - 3. Comply with all required continuing education in the long-term care field; and
 - 4. Complete a preparatory educational seminar approved by the Board.
- B. A preceptor shall:
 - 1. Implement the AIT training program in a facility.
 - 2. Interview a prospective AIT to ensure that the preceptor and AIT understand the required training plan, develop the AIT program experience, identify individual responsibilities, and assure compatibility between them. A proposed training program shall be prepared by the preceptor and AIT for submission to and approval by the program advisory committee. The training plan shall include the following:
 - a. The name of the AIT;
 - b. The date;
 - c. The name of the training site, and its address and phone number;
 - d. The number of weeks or hours to complete the program;
 - e. The start, completion and examination dates of the program, including the hours in administration, human resources, nursing, rehabilitation, medical records, activities, social services, business office, dietary, housekeeping, laundry, maintenance, and other;
 - f. The total assigned time in weeks or hours;
 - g. Other comments; and
 - h. The dated signatures of the AIT and preceptor.
 - 3. Provide the AIT with an initial orientation to the facility, its philosophy, its staff and basic operation.
 - 4. Alert the facility's staff to the presence of the AIT and the purpose of the clinical experience and solicit staff

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cooperation in providing information and encouragement to the AIT.

5. Meet with the AIT on at least a weekly basis to evaluate performance, apprise the AIT of areas of competency and weakness, identify problem areas, and modify the training plan to meet altered needs.
 6. Provide information and guidance to the AIT in test-taking techniques to prepare for state licensure.
 7. Provide follow-up with the AIT's progress upon completion of the training program and provide information regarding job opportunities in the field of long-term care administration.
 8. Report on a monthly basis to the program advisory committee any concerns or problems regarding the progress of the AIT, including comments on the professional competence of the AIT as well as the attitudes about long-term care and general suitability of the AIT for the field.
 9. Modify the structure and content of the AIT program in response to feedback received from the AIT's evaluation of the preceptor.
 10. Incorporate into the AIT program visits to other facilities to provide broader exposure to the field, and visits to relevant governmental and community agencies.
 11. Upon completion of training, prepare a certification of program completion and provide it to the program advisory committee, which shall notify the Board that the AIT has successfully completed training. The certification of program completion shall provide the following information:
 - a. The full name of the AIT;
 - b. The place of training, including mailing and street address;
 - c. The telephone number of the place of training;
 - d. The dates the AIT began and completed the program;
 - e. The number of weeks spent in administration, human resources, nursing department, rehabilitation department, medical/patient records, activities department, social services/admissions, business office, dietary department, housekeeping/laundry, environment/maintenance and other;
 - f. The total number of weeks in the AIT training program;
 - g. A certification that the AIT has satisfactorily completed the program under the preceptor's personal supervision;
 - h. A narrative evaluation of the suitability of the AIT for licensure as a nursing care institution administrator; and
 - i. The signatures of the AIT and preceptor, the date, and the preceptor's license number.
- C. A preceptor shall immediately inform the site evaluator when the preceptor is absent for more than 10 consecutive working days for any reason. The site evaluator may extend or suspend the program if the preceptor is absent for a cumulative total of 25 working days for any reason. An AIT may train at another facility under another preceptor who has no other AIT during the absence of the original preceptor.

R4-33-303. Administrator in Training

- A. An AIT shall comply with the standards of conduct applicable to nursing care institution administrators.
- B. An AIT shall serve an internship between the hours of 6:00 a.m. and 7:00 p.m., Monday through Friday, on a regular

basis. An AIT may train on weekends and on 2nd and 3rd shifts for limited periods of time and for specific purposes.

- C. An AIT shall not serve in any capacity in a facility other than that of trainee during the training period.
- D. An AIT shall send a report at the end of the 1st calendar month and every month thereafter to the site evaluator. Each monthly report, together with daily logs, shall be completed for review and signature by the preceptor and submitted to the site evaluator. The report shall provide the following information:
 1. The full name of the AIT;
 2. The training facility name, address, and phone number;
 3. The date of the report;
 4. The dates covered by the report;
 5. The date the internship began and its expected completion date;
 6. A list of assignments and departments with time spent in each;
 7. A summary of learning experiences;
 8. A brief analysis of any problems observed, new experiences, and insights gained;
 9. A statement of any problems that arose during the training;
 10. A list of visits made outside the facility and educational conference attended;
 11. A certification that the information presented is true and accurate; and
 12. The signatures of the AIT and preceptor.
- E. An AIT shall complete the training program in not less than 20 weeks nor more than 52 weeks after beginning training.
- F. Any consecutive absence of an AIT of more than 5 working days shall result in the suspension of the program effective with the 1st day of absence. The preceptor shall immediately notify the site evaluator. The program may resume upon the return of the AIT to the program schedule if reviewed by the site evaluator. The program shall be extended equivalent to the period of time lost. Absences of 5 consecutive working days or less shall be worked out between the preceptor and the AIT.
- G. An AIT shall develop professional competency and a personal code of ethics through the following:
 1. In collaboration with the preceptor, become involved in decision-making activities of increasing difficulty and their implementation.
 2. Increase knowledge and appreciation of the clinical aspects of delivering quality long-term care services through observation and participation, including involvement with nursing, rehabilitative, and social services.
 3. Develop a familiarity with the patient population in the facility and with the unique problems associated with the delivery of multiple services to an aged, chronically ill, and disabled dependent population.
 4. Become familiar with all departments and services in the facility, including dietary, housekeeping, laundry, maintenance and others, to understand both their individual functions and how they interface with each other.
 5. Complete all projects and assignments made by the preceptor.
 6. Communicate openly with the preceptor at all times.
 7. Evaluate the preceptor's performance in the tutorial role.

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8. Apply the theories, concepts, principles, and techniques learned through formal academic preparation to practical situations in the facility.

**ARTICLE 43. ADULT CARE HOME MANAGER
CERTIFICATION**

R4-33-401 R4-33-301. Training Program Requirements
No change.

R4-33-402 R4-33-302. Eligibility for Initial Certification
No change.

R4-33-403 R4-33-303. Initial Application
No change.

R4-33-404 R4-33-304. Examination
No change.

R4-33-405 R4-33-305. Fees
No change.

R4-33-406 R4-33-306. Renewal Application
No change.

R4-33-407 R4-33-307. Standards of Conduct; Suspension or Revocation
No change.

R4-33-408 R4-33-308. Criteria for Continuing Education
No change.

R4-33-409 R4-33-309. Display of Certificate
No change.

R4-33-410 R4-33-310. Temporary Certificates
No change.

R4-33-411 R4-33-311. Denial of Certificate
No change.

R4-33-412 R4-33-312. Rehearing or Review of Decision
No change.

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

PREAMBLE

1. Sections Affected:

R6-5-5501
R6-5-5502
R6-5-5502
R6-5-5503
R6-5-5503
R6-5-5504
R6-5-5504
R6-5-5505
R6-5-5506
R6-5-5507
R6-5-5508
R6-5-5509
R6-5-5510
R6-5-5511
R6-5-5512
R6-5-5513
R6-5-5514
R6-5-5515
R6-5-5516
Appendix 1
Appendix 2

Rulemaking Action:

Amend
Repeal
New Section
Repeal
New Section
Repeal
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section
New Section

2. **The specific authority for rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing Statutes: A.R.S. §§ 41-1003, 41-1954(A)(3), 46-134, 8-806, and 8-822

Implementing Statutes: A.R.S. §§ 8-201, 8-531, 8-801 through 8-806, 8-811, 8-821, and 8-822

3. **The effective date of the rules:**

January 15, 1998

4. **A list of all previous notices appearing in the Register addressing the final rule**

Notice of Rulemaking Docket Opening: 1 A.A.R. 819, June 23, 1995.
Notice of Proposed Rulemaking: 4 A.A.R. 1194, May 29, 1998.
Notice of Oral Proceedings: 4 A.A.R. 1195-1196, May 29, 1998.

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5. The name and address of the agency personnel with whom persons may communicate regarding the rulemaking:

Name: Sarah Youngblood
 Address: Department of Economic Security
 P.O. Box 6123, Site Code 837A
 Phoenix, Arizona 85005
 Telephone: (602) 542-6555
 Fax: (602) 542-6000

6. An explanation of the rules, including the agency's reasons for initiating the rules:

Since 1972, the Department of Economic Security has been the agency responsible for receiving and investigating reports of child abuse and neglect. The current rules were adopted in December of 1983 to update prior requirements for the investigation of reports of children who are at risk of being or who have been abused, neglected, abandoned, or exploited. In this rulemaking package, the Department is submitting a new, comprehensive set of rules to govern the receiving, screening, and investigating requirements for Child Protective Services. These new requirements reflect the changes in the reporting procedure through a statewide central hotline, definition of a report for Child Protective Services, prioritization of reports, methods for investigation of reports, and report findings. The new rules are consistent with federal and state authority and program policy and practice. The new rules contain a comprehensive set of definitions.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, and any analysis of the study and other supporting material:

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state.

Not applicable.

9. The summary of the economic, small business, and consumer impact:

There is no significant economic impact attributable to the rules. The economic impact results from the statutory mandate to operate a child protective services system and to maintain a central registry of reports of abuse and neglect. CPS is funded through a combination of state and federal funds. Taxpayers bear the cost of the program. Children and families at risk of abuse and neglect receive the benefits of the program at no cost unless a child is placed in foster care. A.R.S. §§ 8-241(C) and 8-806(G) allow the Department to assess parents a fee for foster care services provided to a child who has been removed.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules:

Technical Changes (Format, Style, Grammar, Consistency):

Based on public comments, the Department's review of the rules, and comments from the Attorney General's Office, the Department made nonsubstantive corrections and changes to punctuation and grammar, to conform language to the Secretary of State's requirements, and to correct spelling. The Department also made changes to statutory citations that became effective August 21, 1998, with a retroactive date of July 1, 1998.

Preamble section 1 Changed the rulemaking action for the appendices to New Sections.

Preamble section 2 Changed the authorizing statute citations to reflect statutory changes. Added A.R.S. § 8-201.

Preamble section 2 Changed the statute citation from A.R.S. § 8-546 to 8-531.

Preamble section 2 Changed the statute citation from A.R.S. § 8-546.01 through 8-546.08 to 8-801 through 8-806.

Preamble section 9 Changed the statute citation from A.R.S. § 8-241(C) to 8-241(G).

Preamble section 9 Changed the statute citation from A.R.S. § 546.05(G) to 8-806(G).

R6-5-5501 Definitions Added statute citations A.R.S. §§ 8-201 and 8-801.

R6-5-5501 Definitions Changed the statute citation from A.R.S. § 8-546(A) to 8-531.

R6-5-5501 (Abandonment) Changed the statute citation from A.R.S. § 8-546(A)(1) to 8-201(1).

R6-5-5501 (Abandonment) Corrected number six to Arabic number 6, "...for a period of six 6 months."

R6-5-5501 (Abuse) Changed statute citations from A.R.S. §§ 8-223 to 8-821 and 8-546(A)(2) to 8-201(2).

R6-5-5501 (CHILDS Central Registry) Changed statute citation from A.R.S. § 8-546.03 to 8-804.

R6-5-5501 (CPS Specialist) Changed statute citation from A.R.S. § 8-546(A)(9) to 8-801(2).

R6-5-5501 (Custodian) Changed statute citation from A.R.S. § 8-546(A)(4) to 8-201(8).

R6-5-5501 (Licensing specialist) Changed the comma after the word agency to a semicolon.

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- R6-5-5501 (Maltreatment)** Changed the semicolons to commas, "a" through "c".
- R6-5-5501 (Neglect)** Changed statute citation from A.R.S. § 8-546(A)(7) to 8-201(21).
- R6-5-5501 (Protective services)** Changed statute citation from A.R.S. § 8-546(A)(8) to 8-801(1).
- R6-5-5501 (PSRT)** Changed statute citation from A.R.S. § 8-546.12 to 8-811.
- R6-5-5502** Changed the semicolons to commas in subsection (C)(1)(a) and (b).
- R6-5-5502** Indented subsection (C)(1)(a) and (b) to the 3rd level.
- R6-5-5502** Changed the word referral to report in subsection (C)(2) to reflect current agency terminology.
- R6-5-5503** Changed the comma to a semicolon in subsection (5)(a) after R6-5512(B).
- R6-5-5503** Indented subsection (5)(a) and (b) and subsection (8)(a) and (b) to the 3rd level.
- R6-5-5504** Changed the colon after the word "Classifications" to a period in subsection (A). Moved the information immediately following, to follow the period after "Classifications".
- R6-5-5504** Indented subsection (C)(1)(a) and (b) to the 3rd level.
- R6-5-5505** Indented items following subsections (1) through (4) to the 3rd level and labeled them with small letters (a), (b) and (c) as needed.
- R6-5-5506** Indented (i)(ii) in subsection (A)(2)(c) to the 4th level.
- R6-5-5507** Changed semicolons to commas in subsection (B)(1) and indented (a) and (b) to the 3rd level.
- R6-5-5508** Changed the statute citation in subsection (C) from A.R.S. § 8-546.01(C)(2) to 8-802(C)(2).
- R6-5-5508** Added a semicolon in subsection (E)(1) after "and".
- R6-5-5508** Changed the period to a semicolon in subsection (E)(2) after "information;".
- R6-5-5508** Changed the statute citation in subsection (E)(1) from A.R.S. § 8-546.02 to 8-803(B).
- R6-5-5508** Changed the statute citations in subsection F from A.R.S. §§ 8-223(B)(3)(B)(3) and (C)(2) to 8-821(A) and (B) and 8-546.01(C)(4) to 8-802(C)(4).
- R6-5-5509** Corrected spelling of recoemmed to recommend.
- R6-5-5510** Changed periods to semicolons in subsections (1)(2) and (5).
- R6-5-5512** Indented subsection (B)(2)(a) through (h) to the 3rd level.
- R6-5-5512** Indented subsection (B)(6)(a) through (c) to the 3rd level.
- R6-5-5512** Indented subsection (C)(2)(a) through (I) to the 3rd level.
- R6-5-5513** Changed the statute citation in subsection (A)(5) from A.R.S. § 8-546.05 to 8-806.
- R6-5-5513** Changed the statute citation in subsection (B) from A.R.S. § 8-223 to 8-821.
- R6-5-5514** Changed the statute citation in subsection (A) from A.R.S. § 8-546.08(3) to 8-822(3).
- R6-5-5514** Changed the statute citation in subsection (E) from A.R.S. § 8-223 to 8-821.
- R6-5-5515** Changed labels in subsection (A)(a) through (d) to Arabic numbers (A)(1) through (4).
- R6-5-5515** Indented subsection (C)(3)(a) through (c) to the 3rd level.
- R6-5-5515** Corrected the label for subsection (E) to subsection (D).
- R6-5-5516** In response to a comment, revised text in subsection (D) to eliminate confusion resulting from the beginning phrase, "not withstanding a situation..." ~~Not withstanding~~ Unless a situation ~~which~~ may jeopardize the safety of a child, ..."
- Appendix 1** Moved the title up to the level of Appendix 1. Appendix 1 PRE-SCREENING CUE QUESTIONS:
- Appendix 1** Question 3, changed "i.e." after the child, to "that is .. child, i.e., school, day care to "...child, that is, school, day care."
- Appendix 1** Deleted etc. after "day care, relative, etc." to..."day care, relative, etc.?"
- Appendix 1** Question 4, changed the slash between facility/foster to "...facility or foster."
- Appendix 1** Changed the slash between he/she to "... he or she."
- Appendix 2** Moved the title up to the level of Appendix 2. Appendix 2 CUE QUESTIONS.

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Appendix 2 Physical Abuse Cue Questions, changed the slash in the statement after question number 4, "...DES facility/foster," to "...DES facility or foster."

Appendix 2 Changed the slash in the statement after question number 7, DES facility/foster, to "...DES facility or foster."

Appendix 2 Neglect Cue Questions numbers 9 and 10. Changed the slash between staff/foster to "...DES facility or foster."

Appendix 2 Neglect Cue Question, Drug Expose Infants. Changed the slash in the statement doctor and/or hospital, to "...doctor or hospital?"

Appendix 2 Closure Cue Question number 1. Changed the slash between Dismissal/pick-up time, "...Dismissal or pick-up time?"

Appendix 2 Closure Cue Question number 3. Changed the slash between DR/Badge number, to "...DR or Badge number."

Changes that resulted in a change or clarification in the meaning of a rule:

Based on comments from child advocates, public comment, and review of the rules by the Department and the Attorney General's Office, the Department made the following corrections and changes to the rules.

R6-5-5501 Definitions

R6-5-5501 In response to comment concerning the Department's use of a "not investigated" report disposition under R6-5-5506(A)(2), a definition for "Alternative Response" was added to replace the "not investigated" disposition. Renumbered all definitions beginning with #6 to conform.

"Alternative response" means a report referred to Family Builders for assessment and services, and not investigated by CPS according to Laws 1997, Chapter 223, § 2.

R6-5-5501 A comment was received that the definition of "CPS" contained in R6-5-5601(4), (a proposed rule published in 4 A.A.R. 1254, May 29, 1998), was not clear in describing the organizational structure and function. For consistency, the definition in R6-5-5501(12) has also been changed to:

"CPS" means Child Protective Services, a program within the Administration for Children, Youth and Families, (ACYF) to receive and investigate allegations of child maltreatment and provide protective services as described in R6-5-5501(40).

R6-5-5501 (Family Assessment) A comment was received concerning section 24(c), "Child Safety Assessment," that the written instrument should be referenced. The Department has concluded that the Child Safety Assessment is no longer a written instrument and is presently an evaluation process as described in R6-5-5512 and documented in the CPS automated system. The definition of section 24 is changed to: "Family assessment" means a written-instrument process that "...includes a child safety assessment to determine the probability of risk to a child as described in R6-5-5512."

R6-5-5501 In response to a comment that the Family Builders program is not included in rule, a reference to this program is being added to R6-5-5506 and a definition for Family Builders has been added.

"Family Builders" means a program that allows CPS to refer selected reports to community based providers for family assessments, and services according to Laws 1997, Chapter 223, § 2.

R6-5-5501 In response to comments that the definition of probable cause, subsection 37, is unclear in the use of a classification of at least a 33% likelihood that an allegation is true, or how this would be quantified or adopted, the following change is being made:

"Probable cause" means that the Department has some evidence that an allegation is more likely to be true than not true, and is quantified as at least a 33% likelihood that an allegation is true. The Department quantifies probable cause in R6-5-5509.

R6-5-5506(A)(2)(d) In response to comments concerning the provision that a CPS report may be assigned a "not investigated" status without statutory authority, subsection (A)(2) (d) is changed to: Not Investigated. CPS cannot investigate due to lack of available resources to conduct the investigation. Alternative Response, such as reports referred to Family Builders according to Laws 1997, Chapter 223, § 2.

R6-5-5508(B) In response to comment concerning the methods to be followed when conducting an investigation, the statement was changed to: "The CPS Specialist shall investigate allegations through 1 or more of using the following methods:"

R6-5-5511 In response to comment concerning the need to include voluntary and involuntary services beyond removal, the title of this rule has been changed to eliminate confusion that this rule seemed to indicate that ongoing services were not provided to families when a report was substantiated and unsubstantiated to: Procedures for Unsubstantiated Reports; Ongoing Services; Case Closure Ongoing Services; Imminent Harm Not Identified; Case Closure

R6-5-5511(A) In response to comment concerning the need to provide services to families when there is a substantiated report of child maltreatment, this subsection has been changed to add clarification to case closure. If the finding is unsubstantiated or substantiated without unresolved problems, the CPS Specialist shall close the case.

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R6-5-5511(B) In response to comment concerning providing services, this subsection has been changed to clarify the decision to open a case for ongoing services. "If the finding is unsubstantiated or substantiated and there is not risk of imminent harm to the child, ..."

Appendix 3 (Investigation Priority Scheme) The Department has made the decision to remove this appendix from this rule-making package. The appendix provides descriptions of various child abuse and neglect situations used by the Hotline to prioritize reports for CPS response. The situations are classified into categories of physical abuse, neglect, sexual abuse, abandonment or exploitation. After investigation, CPS determines if the situation and category is to be substantiated or unsubstantiated. At the time these rules were proposed, and this appendix included, the process for individuals to appeal a CPS decision to substantiate a report under A.R.S. § 8-811, was being implemented. It has been difficult for the Office of Administrative Hearings to apply this Investigation Priority Scheme in making recommendations to support or not support the proposed CPS finding. Therefore, it is necessary that the Department review this system in relation to the impact of the CPS appeal process for proposed substantiated investigative findings. It would be inappropriate to establish this appendix in rule pending examination of the current abuse and neglect statutes, and the Department's internal priority and response system. The Department has also been in the process of drafting revisions as a result of internal and external recommendations.

11. A summary of the principal comments and the agency response to them:

The Department received public comments regarding the issues summarized below.

This section describes comments that were not adopted, and the Department's response to those comments. The response explains the Department's reasons for not making a requested change. In section 10 above, the Department described comments received where the response was to make the requested change.

R6-5-5501 (Ongoing protective services) A comment was received requesting the list of services be all inclusive. The Department determined that this definition was not intended to list all services available by the agency but to provide examples of services when a decision is made to open a case after an investigation is completed.

R6-5-5502(B) and Appendix 1 A question was received as to whether accepting anonymous reports would be permitted by A.R.S. § 41-1010 (SB 1034, Laws of 1998, Chapter 57, § 23). A.R.S. § 41-1010 requires a person who reports a violation of a law or rule to disclose their name. The person's name then becomes a public record unless the agency determines that the release of the name may result in substantial harm to any person or the public. The Hotline is following the recommendation of the Attorney General's office to inform a caller of the provisions of this statute. A report of child maltreatment will be taken if the caller refuses to provide a name.

R6-5-5502(C) Received 1 comment to reverse the order of the sequence of events in (C)(1)(b), the decision to classify a communication as a report, and (C)(2), checking the CPSCR and other DES databases. The Department determined that the decision to classify a communication a report is 1st based on the information received. The check of the automated systems may be conducted simultaneously.

R6-5-5504(C) One comment stated that clear time-frames should be established as to when a reporting source is informed by hotline staff that a report is not accepted, and time-frames designated for the different levels of supervisory review. The Department determined that time-frames are not necessary as the caller is still on the phone with hotline staff during the actions listed in subsections (C)(1) and (2).

Additional comments needing clarification:

1. **R6-5-5507(E)(3)** A comment was received concerning references to DHS and DES licensed facilities, custodians, and licensing specialists. Clarification was needed in the following areas:

a. When CPS would investigate DHS and DES licensed facilities and if an alternative investigation applies to these facilities. The Department feels that R6-5-5507 clearly states that an alternative investigation may not be conducted when the report involves the situations described in subsection (E)(3) and must be assigned for field investigation.

b. When licensing specialists are notified. R6-5-5516 includes licensing specialists in the investigative process. CPS notifies either the licensing specialist or supervisor, therefore, notification must be as soon as possible due to the shorter time-frames imposed on this process. R6-5-5515 does not address notification of a licensing authority as the procedure can vary between agencies. The licensing authority would be involved if a licensing action was a result of a CPS investigation. The right to appeal a licensing action and a proposed substantiated CPS investigation finding can be appealed through the Office of Administrative Hearings.

c. Which DHS licensed facilities are covered by these rules. R6-5-5501(12), references A.R.S. § 8-501(A)(1) which describes the types of placements that are considered child welfare agencies for DES purposes. Hospital settings, detention facilities and child care facilities do not meet the definition of a "custodian" as described in R6-5-5501(17), and are investigated by the respective licensing authority, department, or law enforcement.

2. **Appendix 3** One comment was received to increase the risk levels and response times given to various report descriptions. Any report may be assigned for investigation and responded to immediately regardless of the designated standard response. The Department has removed this appendix from the rule package as described in section 10.

3. A comment was received about referencing the Child Abuse Hotline as accepting calls, untimely response to calls and whether a rule setting a time limit to answer a call is needed. R6-5-5503 identifies the Hotline as receiving and screening calls.

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The Department makes continuous efforts to improve the response to callers and has installed a new telephone system and hired additional staff. It would be inappropriate to establish a mandatory time-frame in rule as circumstances, including, telephone system problems, staff resources, and variance in the length of an individual call would not permit compliance.

4. A suggestion was received to have a rule permitting feedback on the outcome of reports to mandatory reporters. The Department is permitted under A.R.S. § 8-807(H) to provide the outcome of reports to a person who reported. This provision is included in R6-5-5607, proposed rule published in 4 A.A.R., 1254, May 29, 1998.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules.
Not applicable
13. Incorporations by reference and their locations in the rules:
Not applicable
14. Was this rule previously adopted as an emergency rule?
Not applicable
15. The full text of the rules follows:

NOTICE OF FINAL RULEMAKING

TITLE 6. ECONOMIC SECURITY

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY
SOCIAL SERVICES**

ARTICLE 55: CHILD PROTECTIVE SERVICES

Section

- | | |
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| R6-5-5501. | Definitions |
| R6-5-5502. | Eligibility for Child Protective Services |
| R6-5-5502. | Receipt and Screening of Information; CPS Hotline |
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| R6-5-5504. | Preliminary Screening Classifications |
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| R6-5-5508. | Conduct of a Field Investigation |
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| R6-5-5510. | Investigation Findings; Required Documentation |
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| R6-5-5512. | Procedures for Substantiated Reports; Removal; Imminent Harm |
| R6-5-5513. | Alternatives to Involuntary Removal; Voluntary Placement; Removal |
| R6-5-5514. | Removal Review |
| R6-5-5515. | Procedures for Investigations of Maltreatment in a Licensed Child Welfare Agency |
| R6-5-5516. | Procedures for Investigations of Out-of-Home Care Providers |
| Appendix 1 | Pre-screening Cue Questions |
| Appendix 2 | Cue Questions |

ARTICLE 55: CHILD PROTECTIVE SERVICES

R6-5-5501. Definitions

- A. "For purposes of these rules, the following terms are defined as follows:
1. "Assessment" and "resolution" means a report that is determined to be clearly invalid after telephone and/or office investigation, and has been reviewed by the unit supervisor.

2. "Case" means a report regarding a child or family that is assigned for field investigation.
3. "Child", "youth", "minor", or "juvenile" means an individual who is under the age of 18 years.
4. "Court" means the Juvenile Division of the Superior Court.
5. "Department" means the Department of Economic Security.
6. "Dependency petition" means the formal legal petition requesting the court to adjudicate a child dependent.
7. "Exploitation" means an unjust or improper use of a child for another person's profit or advantage.
8. "Incoming communication" means verbal, written, or in-person contact to Child Protective Services.
9. "Information and referral" means an incoming communication without sufficient identifying information or content to constitute a report, and/or process by which a client is directed to an appropriate community resource.
10. "Information only" means a report recorded with insufficient information to support a case for field investigation and which information has been reviewed by the unit supervisor.
11. "Invalid" means an allegation of neglect, abuse, dependency or exploitation received either in an initial report or during subsequent investigation which investigative facts, observations and professional judgments shows not to have a reasonable relationship between the allegation and acts of commission or omission by the alleged perpetrator.
12. "Investigation" means the process by which allegations of dependency, abuse, or exploitation are either found valid, invalid, or undetermined.
13. "Law enforcement" refers to sheriffs, constables, marshals, police officers and Department of Public Safety Officers.
14. "Neglect" means the inability or unwillingness of the parent/caretaker to provide a child with the proper care and supervision necessary for his/her health and well being. Neglect may be defined as abuse when infliction of physical injury, impairment of bodily functioning or

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disfigurement could result from leaving a child in the home.

15. "Perpetrator" means the individual(s) alleged or determined to have abused, neglected or exploited a child.
16. "Report" means an allegation of abuse, neglect, dependency, or exploitation to Child Protective Services with sufficient identifying information to find the child.
17. "Screening" means the initial process of determining if a valid allegation of neglect, abuse, dependency, or exploitation exists.
18. "Temporary custody notice" means a written notice by the Department to parents, guardians, or caretakers outlining reasons why the child has been taken into temporary custody and advising them of their rights to petition the court within 72 hours (excluding weekends and holidays) of receipt of the written notice, for a hearing to review temporary custody.
19. "Temporary investigative custody" means removal of a child(ren) by a Child Protective Services worker with a court order which is requested when the family is uncooperative and it is necessary to protect the child away from the home while the report is adequately investigated.
20. "Temporary protective custody" means the removal of a child(ren) by a Child Protective Services worker or a Peace Officer for a period of time not to exceed 48 hours (excluding weekends and holidays) for the purpose of protection of the child.
21. "Undetermined" means an allegation of neglect, abuse, dependency or exploitation received either in an initial report or during subsequent investigation which investigative facts, observations and professional judgments do not confirm or refute a reasonable relationship between the allegation and acts of commission or omission by the alleged perpetrator.
22. "Valid" means an allegation of neglect, abuse, dependency or exploitation received either in an initial report or during subsequent investigation which investigative facts, observations and professional judgments shows to have a reasonable relationship between the allegation and acts of commission or omission by the alleged perpetrator.
23. "Voluntary agreement" means a written agreement between the parent, guardian, or caretaker, DES, and the child if the child is over 12 years of age, placing the child in foster care for a period not to exceed 90 days.
24. "Worker" means a Child Protective Services worker.

The definitions in A.R.S. §§ 8-531, 8-201, 8-801, and the following definitions apply in this Article:

1. "Abandonment" has the same meaning ascribed to "abandoned" in A.R.S. § 8-201(1).
2. "Abuse" means the same as A.R.S. § 8-201(2).
3. "Aggravating factor" means a specific circumstance that increases the risk of harm to a child and may result in a shorter investigation response time.
4. "Alleged abuser" means a child's parent, guardian, or custodian accused of child maltreatment.
5. "Alternative investigation" means, under R6-5-5507, a method to determine that a report of child maltreatment is unsubstantiated without a field investigation.
6. "Alternative response" means a report referred to Family Builders for assessment and services and not investigated by CPS according to Laws 1997, Chapter 223, § 2.
7. "Caregiver" means a child's parent, guardian, or custodian.

8. "Child" means a person less than age 18.
9. "Child Abuse Hotline" or "the Hotline," means a state-wide, toll-free telephone service, including TDD service, that the Department operates 24 hours per day, 7 days per week, to receive calls about child maltreatment.
10. "CHILDS" means the Children's Information Library and Data Source, which is a comprehensive, automated system to support child welfare policies and procedures, and includes information on investigations, ongoing case management and payments.
11. "CHILDS Central Registry" means the Child Protective Services Central Registry, a confidential, computerized database within CHILDS, that the Department maintains according to A.R.S. § 8-804.
12. "Child welfare agency" has the same meaning as in A.R.S. § 8-501(A)(1).
13. "CPS" means Child Protective Services, a program within the Administration for Children, Youth and Families (ACYF), a division of the Department designated to receive and investigate allegations of child maltreatment and provide protective services as described in subsection (40).
14. "CPS Administrator" means the DES Administrator responsible for operation of CPS, or that person's designee, which may include the Field Operations Manager, the CPS District Program Manager ("DPM"), the CPS Assistant District Program Manager ("APM"), or the CPS Local Office Manager.
15. "CPS Specialist" has the same meaning ascribed to "protective services worker" in A.R.S. § 8-801(2).
16. "CPS-CIU" means the Child Protective Services Central Intake Unit that operates the Child Abuse Hotline, screens incoming communications, and transmits reports to a CPS unit.
17. "Custodian" means a person defined in A.R.S. § 8-201(8). For CPS reporting purposes, a custodian is also any person with whom the child resides at the time of a maltreatment and includes a:
 - a. Friend,
 - b. Relative,
 - c. Foster parent, and
 - d. Child welfare agency.
18. "DCYF" means the Department's Division of Children Youth and Families, an administrative unit that includes CPS.
19. "DDD" means the Department's Division of Developmental Disabilities.
20. "Delinquent act" has the same meaning prescribed in A.R.S. § 8-201(9).
21. "Department" means the Arizona Department of Economic Security.
22. "Exploitation" means use of a child by a parent, guardian, or custodian for material gain, which may include forcing a child to panhandle, steal, or perform other illegal activities.
23. "Family" means persons, including at least 1 child, who are related by blood or law, who are legal guardians of a child, or who reside in the same household.
24. "Family assessment" means a process that:
 - a. CPS uses to evaluate a family strengths, weaknesses, and problems;
 - b. Is based on the family's history, observations about the family, professional opinions, and other information; and

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- c. Includes a child safety assessment to determine the probability of risk to a child, under R6-5-5512.
 25. "Family Builders" means a program that allows CPS to refer selected reports to community based providers for a family assessment, and services according to Laws 1997, Chapter 223, § 2.
 26. "Guardian" means the same as A.R.S. § 8-531(9).
 27. "Incoming communication" means a telephonic, written, or in-person, contact to CPS that is received by or ultimately directed to the Child Abuse Hotline.
 28. "Licensing specialist" means a person who is:
 - a. Designated by the Department or another state licensing agency; and
 - b. Responsible for licensing, supervision, support, and monitoring of foster homes or child welfare agencies.
 29. "Lifestyle" means a way of life or pattern of conduct that reflects the values and attitudes of a child's parent, guardian, or custodian.
 30. "Maltreatment" means abuse, neglect, abandonment, or exploitation of a child. When used in reference to CPS activities, maltreatment means that a parent, guardian, or custodian:
 - a. Has committed an act of maltreatment.
 - b. May commit an act of maltreatment.
 - c. Has permitted another person to commit an act of maltreatment, or
 - d. Had reason to know that another person might commit an act of maltreatment and did not act to prevent the potential maltreatment.
 31. "Mandated reporter" means a person who is required to report suspected child maltreatment under A.R.S. § 13-3620.
 32. "Minor hygienic problem" means a body condition that does not pose a risk of serious or immediate harm, such as body odor, dirty hair, matted hair, dirty clothing, and treated chronic head lice.
 33. "Mitigating factor" means a specific circumstance that reduces the risk of harm to a child and may permit a longer investigation response time.
 34. "Neglect" or "neglected" means the same as A.R.S. § 8-201(21).
 35. "Non-abusive caregiver" means a parent, guardian, or custodian who is not the subject of a CPS report or an investigation of alleged maltreatment.
 36. "Notice of removal" means a form of notification that CPS gives to a person other than a caregiver, when CPS removes a child and places the child in temporary custody.
 37. "Ongoing protective services" are voluntary or involuntary social services designed to help a family resolve problems that contribute to child abuse, and may include counseling, parenting classes, parent aide services, and voluntary foster care placement.
 38. "Out-of-home placement" means a place where a child resides when the child is unable to reside at home because of maltreatment, and includes:
 - a. A relative home.
 - b. A foster home.
 - c. A licensed child welfare agency.
 - d. A behavioral health facility.
 - e. An unlicensed non-relative.
 - f. An independent living program, and
 - g. A group home for persons with developmental disabilities.
 39. "Probable cause" means that the Department has some evidence that an allegation is more likely to be true than not true.
 40. "Protective services" means the same as A.R.S. § 8-801(1).
 41. "PSRT" means the DCYF Protective Services Review Team that administers the process described in A.R.S. § 8-811 for appeal of proposed substantiated findings of abuse or neglect.
 42. "Report" means a classification assigned to an incoming communication after the Child Abuse Hotline has screened the communication and found it to include:
 - a. An allegation of maltreatment about a person who is currently a child; and
 - b. Sufficient information for CPS to locate the child who is the subject of the maltreatment.
 43. "Screening" means an initial process of determining whether an incoming communication contains an allegation of child maltreatment, and should be classified as a report.
 44. "Standard response time" means the period between the time a local CPS office receives a report from the Hotline and an action is taken to determine that a child victim is safe, in the absence of aggravating or mitigating factors.
 45. "Substantiated" means that a CPS Specialist has concluded, after an investigation, that there is probable cause to believe an alleged abuser committed an act of child maltreatment.
 46. "TDD" means a telecommunication device for the deaf.
 47. "Unsubstantiated" means that a CPS Specialist has concluded, after an investigation, that there is no probable cause to believe an alleged abuser committed an act of child maltreatment.
- R6-5-5502. Eligibility for Child Protective Services**
- A. All children present in Arizona whether they are citizens or aliens, are entitled to Child Protective Services without regard to income.
- R6-5-5502. Receipt and Screening of Information: Child Abuse Hotline**
- A. The Department operates a Child Abuse Hotline to receive and screen incoming communications. If a person calls, visits, or writes a Department office other than the Child Abuse Hotline to report child maltreatment, the Department shall refer the person or written communication to the Hotline.
- B. The Department accepts anonymous calls of alleged maltreatment.
- C. When the Hotline receives a communication the Hotline staff shall:
 1. Ask a caller's identity;
 2. Use the standardized questions listed in Appendix to this Article, to determine:
 - a. The type of maltreatment alleged, and
 - b. Whether to classify the communication as a report, and
 2. Check the CHILDS Central Registry and other DES computer databases for prior reports on the same persons.
- D. When the Department receives an oral report from a mandated reporter, the Department shall ask the mandated reporter to file a written statement confirming the oral report.

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R6-5-5503. Receiving Child Protective Service Reports

- A.** Receiving. The Department will receive reports on a 24 hour basis concerning children who are allegedly dependent, neglected, abused or exploited.
- B.** Reporting sources. Individuals mandated by A.R.S. § 13-3620(A) to report to Child Protective Services will be informed to support a verbal report with a written statement.
- C.** Screening
1. A report must contain sufficient identifying information to find the child(ren) and/or caretaker(s), and contain allegations of abuse, neglect, abandonment, or exploitation.
 2. A worker shall try to obtain from the source sufficient information to constitute a report.
 3. A report can be handled as an "Assessment and Resolution", "Information Only", or a case as defined in R6-5-5501.
 4. All reports shall be recorded.
 5. Child Protective Services does not have the authority to proceed with the following types of incoming communications and these will not be considered reports for field investigation:
 - a. Statements regarding children who are absent from school, and there are no reported allegations of neglect, abuse, dependency, or exploitation.
 - b. Statements regarding children who have allegedly committed delinquent acts and who are age eight or older, or siblings of a child who has allegedly committed a delinquent act, and there is no reported allegation of abuse, neglect, dependency, or exploitation.
 - c. Statements regarding children of parents who are physically absent and arrangements are made for the care of the children and there are no reported allegations of abuse, neglect, dependency, or exploitation.
 - d. Statements regarding children being treated by an accredited Christian Science Practitioner, or other spiritual and/or religious based healer, if the child is not alleged to be suffering serious injury or disease that is life threatening or could result in permanent injury or disability.
 - e. Statements regarding children who have minor hygienic problems and there are no reported allegations of abuse, neglect, abandonment, or exploitation.
 - f. Statements regarding parent's/caretaker's life style when there are no reported allegations that the children are being abused, neglected, abandoned or exploited.
 - g. Statements by non-custodial parents who are denied visitation by custodial parent, and there are no reported allegations of abuse, neglect, abandonment, or exploitation of the children.
 - h. Statements by a relative/caretaker who wants legal custody of a child and there are no reported allegations of abuse, neglect, dependency or exploitation.
 - i. Statements concerning spiritual neglect or disapproval of religious practices, when no allegations of abuse, neglect, abandonment, or exploitation are reported.
- D.** Child Protective Services reports and law enforcement. All Child Protective Services reports shall be forwarded to a municipal or county law enforcement agency.

- E.** Report case flow. All reports that are not handled as an "Assessment and Resolution", or as an "Information Only" shall be accepted as cases for field investigation.

R6-5-5503. Non-Reports

Unless a communication includes an allegation of child maltreatment, the Department shall not classify as a report statements concerning the following matters:

1. A child's absence from school;
2. A child age 8 or older who allegedly committed a delinquent act;
3. Siblings of a child age 8 or older, who allegedly committed a delinquent act;
4. A child whose parents are absent, but made arrangements for the child's care;
5. A child who is receiving treatment from an accredited Christian Science practitioner, or other religious or spiritual healer, unless the child's health is:
 - a. In imminent harm, under R6-5-5512(B); or
 - b. Endangered by lack of medical care;
6. A child with minor hygienic problems;
7. The lifestyle of a child's parent, guardian, or custodian;
8. Custody disputes, including:
 - a. A non-custodial parent who is denied visitation by the custodial parent, and
 - b. A relative or other person who wants legal custody of a child; and
9. Spiritual neglect of a child or the religious practices or beliefs to which a child is exposed.

R6-5-5504. Investigation of Child Protective Service reports of child abuse, neglect, dependency or exploitation

- A.** Cases will be investigated by a Child Protective Services worker.
- B.** A child may be interviewed at any site deemed appropriate by the Child Protective Services worker.
- C.** The investigation may be conducted through contacting available sources of information in addition to family/caretaker(s).
- D.** If family/caretaker(s) refuse to cooperate the investigation can be conducted by contacting any other sources of information.
- E.** When the family/caretaker(s) refuses to cooperate in the investigation, the Department can petition the Court for temporary investigative custody when the child appears to be in imminent danger of abuse and can remove the child when the Court approves such custody. A dependency petition would have to be filed or the child returned within 48 hours, excluding weekends and holidays, of the child's removal from the home.
- F.** A child can be removed if suffering or in danger of imminently suffering abuse. A dependency petition must be filed or the child returned within 48 hours, excluding weekends and holidays.
- G.** If a child is suffering or in danger of imminently suffering abuse, the Department has the option to accept a voluntary placement pursuant to A.R.S. § 8-546.05.
- H.** In all situations when a child is taken into custody, with or without a court order, a written temporary custody notice is delivered to the parent, guardian, or caretaker of the child whenever the whereabouts are known.
- I.** If allegations are invalid or undetermined and the investigation identifies no unresolved problems related to past or potential abuse or neglect:
1. The report of investigation shall document the basis for the conclusion and the case will be closed.

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2. The parent, guardian, or custodian of the child shall be advised of the closure of the case.
- J. ~~When allegations are valid or undetermined and the investigation identifies unresolved problems related to past or potential abuse or neglect, the Department shall:~~
 1. ~~Offer and/or provide social services to stabilize and preserve family life;~~
 2. ~~Provide continuing social services as appropriate and necessary to prevent neglect, abuse, dependency, or exploitation of children;~~
 3. ~~Keep children in the family unit when their health and/or safety can be protected without removal;~~
 4. ~~Advise the family/caretaker(s) if the offer of services is refused, of the Department's continuing concern in the situation, and the options available to the Department if there are further allegations;~~
 5. ~~Have the option to file a Dependency Petition.~~

R6-5-5504. Preliminary Screening Classifications

- A. Screening Classifications. After preliminary screening, Child Abuse Hotline staff shall classify a communication into 1 of the following categories:
 1. A communication that is a non-report, or
 2. A report for investigation.
- B. Communication that is a non-reports.
 1. If a caller describes a problem that does not involve child maltreatment, the Hotline staff shall refer the caller to a community resource that can help with the problem.
 2. If a communication involves a child who is already in the Department's care, custody, and control, the Hotline staff shall record the information and send it to the child's case manager for action. If a communication involves a licensed out-of-home care provider, the Hotline shall also notify the provider's licensing specialist, or the appropriate licensing authority.
 3. If a communication involves suicidal or homicidal behavior, or presents a danger to self or others, the Hotline staff shall refer the caller to law enforcement or behavioral health services.
 4. If a communication involves an incorrigible or delinquent child who is age 8 or older, the Hotline staff shall refer the caller to the local county juvenile probation office.
 5. If a communication involves child maltreatment by a person other than a child's caregiver, without the caregiver's knowledge, the Hotline staff shall notify, and direct the caller to notify, local law enforcement.
- C. Review of non-reports.
 1. If the information provided by a caller is not a report, the CPS Hotline staff shall:
 - a. Record the information;
 - b. Inform a caller that the information is not a report, and
 - c. If a caller disagrees with the decision not to take a report, advise the caller that a request may be made for a supervisory review.
 2. If a caller requests a supervisory review, the Hotline staff shall transfer the caller to an available supervisor. The caller may request further review by the Child Abuse Hotline Assistant Program Manager, Hotline Program Manager, and ultimately, the ACYF Field Operations Manager.
 3. A Child Abuse Hotline supervisor or a CPS quality assurance specialist shall review all communications not

classified as a report within 48 hours of receipt to verify that the communication was properly classified.

- D. Communication that is a report for investigation.
 1. If a communication contains the information required for a report, the Hotline staff shall gather additional information using the standardized questions listed in Appendix 2.
 2. The Hotline staff shall assign each report a priority code, and may assign a tracking code.
 3. The Hotline staff may shorten or lengthen the response time based on aggravating or mitigating factors received during the screening.
 4. The Hotline staff shall give the caller the name and phone number of the local office supervisor receiving the report.
 5. The Hotline staff shall enter the report information into CHILDS.
 6. The Hotline staff shall immediately transmit the report to a local office for disposition.

R6-5-5505. Priority Codes: Initial Response Time

- A. Priority codes and initial response times are:
 1. Priority 1: High Risk;
 - a. Standard Response Time: 2 hours;
 - b. Mitigated Response Time: 24 hours.
 2. Priority 2: Moderate Risk;
 - a. Standard Response Time: 48 hours;
 - b. Aggravated Response Time: 24 hours;
 - c. Mitigated Response Time: 72 hours.
 3. Priority 3: Low Risk;
 - a. Standard Response Time: 72 hours;
 - b. Aggravated Response Time: 48 hours;
 - c. Mitigated Response Time: 72 hours excluding weekends and Arizona state holidays.
 4. Priority 4: Potential Risk;
 - a. Standard Response Time: 7 days;
 - b. Aggravated Response Time: 72 hours excluding weekends and Arizona state holidays.
- B. All response times are measured from the time that the CPS local office receives the report from the Child Abuse Hotline to the time action is taken to determine the current safety of the alleged victim.
- C. To comply with the priority response time, entities other than CPS, such as law enforcement personnel, emergency personnel, or paramedics, may initially respond to a report.
- D. If law enforcement or emergency personnel initially respond to a report, CPS shall respond and investigate the report no later than the mitigated response time for the designated priority.

R6-5-5506. Methods for Investigation of Reports.

- A. Upon receipt of a report, a CPS unit supervisor:
 1. May aggravate or mitigate the response time, if the Child Abuse Hotline has not assigned a mitigating or aggravating factor, but shall not change any aggravating or mitigating factors assigned by the Hotline; and
 2. Shall assign 1 of the following dispositions:
 - a. Field investigation;
 - b. Alternative investigation under R6-5-5507;
 - c. Legally prohibited investigation. A federal, state statute, or court order prohibits CPS from investigating, for example:
 - i. The alleged maltreatment occurs on a United States military base or Tribal reservation land;
 - or
 - ii. A court orders CPS not to investigate; or

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d. Alternative response, such as reports referred to Family Builders.

B. The CPS unit supervisor shall document the action taken and the disposition.

R6-5-5507. Alternative Investigation

A. Upon receipt of a report, a CPS unit supervisor may conduct an alternative investigation.

B. To conduct an alternative investigation, CPS shall contact a mandatory reporting source who is currently involved with the family and can provide information that:

1. The child and other children residing in the home are not:

- a. Current victims of maltreatment; or
- b. At risk of imminent harm; and

2. The allegations are unsubstantiated.

C. A CPS administrator shall review and approve any decision to conduct an alternative investigation.

D. If information gathered during an alternative investigation indicates that an alleged victim may be at risk of harm, the CPS Supervisor shall immediately assign the case for field investigation.

E. CPS shall not conduct an alternative investigation if an allegation involves an alleged victim who is:

- 1. Already in Department custody.
- 2. Currently the subject of an open CPS case.
- 3. In a DES or DHS licensed or certified facility, or
- 4. In a DES licensed family foster home.

R6-5-5508. Conduct of a Field Investigation

A. When conducting a field investigation, a CPS Specialist shall determine:

- 1. The name, age, location, and current physical and mental condition of all children in the home of the alleged victim;
- 2. Whether any child in the home has suffered maltreatment; and
- 3. Whether any child in the home is at risk of maltreatment in the future.

B. A CPS Specialist shall investigate allegations using the following methods:

- 1. Interview the alleged victim;
- 2. Interview the alleged victim's caregiver who allegedly committed the abuse;
- 3. Interview other adults and children residing in the home;
- 4. Interview other persons who may have relevant information, including the reporting source, medical personnel, relatives, neighbors, and school personnel;
- 5. Review available documentation including medical and psychiatric reports, police reports, school records, and prior CPS files; or
- 6. Consult with law enforcement.

C. A CPS Specialist may interview a child without prior parental consent under A.R.S. § 8-802(C)(2).

D. A CPS Specialist may exclude the alleged abuser from participating in an interview with the alleged victim, the alleged victim's siblings, or other children residing in the alleged victim's household.

E. Before interviewing a caregiver, a CPS Specialist shall:

- 1. Orally inform the caregiver of the rights and duties under A.R.S. § 8-803(B);
- 2. Give the caregiver a written statement summarizing the same information; and
- 3. Ask the caregiver to sign a written acknowledgment of receipt of the information.

F. A CPS Specialist may take temporary custody of a child under A.R.S. §§ 8-821(A) and (B), and 8-802(C)(4). The CPS Specialist shall take temporary custody of an alleged victim if the alleged victim needs to be examined and the caregiver will not consent to the examination.

G. If a CPS Specialist finds more allegations of maltreatment during the investigation, the CPS Specialist shall incorporate the allegations into the report and investigate under this Article.

R6-5-5509. Establishing Probable Cause of Child Maltreatment

To determine whether to recommend a substantiated allegation of maltreatment, the CPS Specialist shall consider all information gathered during the investigation, including:

- 1. Whether the alleged abuser or non-abusive caregiver admitted the maltreatment;
- 2. Whether a child provided a developmentally appropriate description of maltreatment;
- 3. Witness statements from persons other than the caregivers and the alleged victim;
- 4. Physical or behavioral signs of maltreatment or damage;
- 5. Medical opinions and opinions from treating professionals, including any conflict of opinion;
- 6. The consistency of the information provided; and
- 7. History of child maltreatment.

R6-5-5510. Investigation Findings: Required Documentation

After completing an investigation, a CPS Specialist shall:

- 1. Unsubstantiate the allegations or make a proposed finding that the allegation is substantiated based on whether the CPS Specialist finds probable cause to believe maltreatment occurred, and after considering the information listed in R6-5-5509;
- 2. Determine whether the family has any unresolved problems involving child maltreatment and needs further services;
- 3. Document in the case record the reason for the finding;
- 4. Include in the case record any oral and written statements or other documentation provided by a caregiver;
- 5. Notify the PSRT of a proposed substantiated allegation finding under A.R.S. § 8-811;
- 6. Enter an unsubstantiated allegation finding into the CHILDS Central Registry; and send the caregiver written notice of the unsubstantiated allegation finding.

R6-5-5511. Ongoing Services: Imminent Harm Not Identified: Case Closure.

A. If a finding is unsubstantiated or substantiated without unresolved problems, the CPS Specialist shall close the case.

B. If a finding is unsubstantiated or substantiated, and there is no risk of imminent harm to a child, but the family has unresolved problems that create a potential for maltreatment, CPS shall determine whether to open the case for ongoing protective services if:

- 1. A family requests ongoing protective services, or
- 2. A dependency action is pending.

C. CPS shall offer a family voluntary protective services before filing a dependency action.

D. When CPS offers a family voluntary protective services, CPS shall:

- 1. Document the family's acceptance or refusal of services;
- 2. Document any services provided, and
- 3. Document any action that CPS has taken to ensure that a child is safe.

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E. To determine how to proceed for ongoing services, CPS shall consider the following criteria:

1. Whether a family acknowledges past maltreatment or potential for future maltreatment.
2. Whether the services are available to help a family address risk factors, and
3. Whether a family is willing to cooperate with the provision of services.

R6-5-5512. Procedures for Substantiated Reports: Removal; Imminent Harm

- A.** If CPS recommends a substantiated finding of maltreatment, CPS shall determine whether the child can safely remain in the home or needs to be removed.
- B.** The following situations indicate imminent harm and require CPS to intervene as provided in R6-5-5513:
1. No caregiver is present and a child cannot care for himself or herself, or for other children in the household;
 2. A child has severe or serious non-accidental injuries that require immediate medical treatment, such as:
 - a. Head injury, with risk of damage to the central nervous system;
 - b. Internal injuries;
 - c. An injury resulting in coma;
 - d. Multiple plane injuries indicative of battering;
 - e. Facial bruises;
 - f. Fractures or bruises in a non-ambulatory child;
 - g. Instrumentation injury with risk of impairment; or
 - h. Immersion burns;
 3. A child requires immediate medical treatment for a life-threatening medical condition or a condition likely to result in impairment of bodily functions or disfigurement, and the child's caregiver is not willing or able to obtain treatment;
 4. A child is suffering from nutritional deprivation that has resulted in malnourishment or dehydration to the extent that the child is at risk of death or permanent physical impairment;
 5. A doctor or psychologist determines that a child's caregiver is unable or unwilling to provide minimally adequate care;
 6. The physical or mental condition of a child's caregiver endangers a child's health or safety, such as a caregiver who:
 - a. Exhibits psychotic behavior and fails to take prescribed medications;
 - b. Suffers from a deteriorating physical condition or illness, or
 - c. Takes prescribed or non-prescribed drugs that result in a child being neglected;
 7. The home environment has conditions that endanger a child's health or safety, such as human or animal feces, undisposed-of garbage, exposed wiring, access to dangerous objects, or harmful substances that present a substantial risk of harm to the child;
 8. A doctor or psychologist has determined that:
 - a. A child's caregiver has emotionally damaged the child;
 - b. The child is exhibiting severe anxiety, depression, withdrawal, or aggressive behavior due to the emotional damage; and
 - c. The caregiver is unwilling or unable to seek treatment for the child; or
 9. A CPS Specialist has probable cause to believe that a caregiver has engaged in sexual conduct with a child, or

has allowed the child to participate in sexual activity with others.

C. In situations not listed in subsection (B), a CPS specialist shall determine the risk of imminent harm and need for removal by:

1. Doing a family assessment to identify family strengths and risk factors; and
2. Evaluating all facts and circumstances surrounding a child and family situation, including the following:
 - a. Whether a law enforcement official or medical professional expresses concern about risk to the child victim if the child victim returns to or remains in the home;
 - b. The alleged abuser's behavior towards the child victim;
 - c. Other adults in the household's behavior towards the child victim;
 - d. Whether the child victim resides with a parent or other adult who is willing and able to protect the child;
 - e. The conditions of the home environment and whether those conditions threaten the child victim's safety or physical health;
 - f. Whether there has been a pattern of maltreatment, particularly a pattern of incidents of increasing severity;
 - g. The nature and severity of the alleged maltreatment;
 - h. Whether DES is able to provide services to the child or family to alleviate conditions or problems that pose a risk of maltreatment, without the need for removal;
 - i. Whether the child's caregiver refuses access to a child or declined an offer of in-home services;
 - j. The family's strengths and risk factors;
 - k. The child's current physical and mental condition; and
 - l. Whether the child victim has injuries that require immediate medical treatment.

R6-5-5513. Alternatives to Involuntary Removal: Voluntary Placement; Removal

- A.** Before removing a child from home without the consent of the child's caregiver, CPS shall consider whether:
1. CPS may help the family obtain resources such as emergency food, shelter, clothing, or utilities, so that the child can safely remain in the home;
 2. CPS may enter into an agreement with the child's caregivers that provides for the alleged abuser to leave the home and for remaining family members to protect the child;
 3. The caregiver identifies a relative or friend who can temporarily care for the child without court intervention or orders;
 4. CPS may help the protective caregiver and the child leave the home of the alleged abuser;
 5. CPS may place the child in voluntary foster care under A.R.S. § 8-806.
- B.** If a child is at risk of imminent harm and the alternative methods identified in subsection (A) will not eliminate the risk of harm, CPS shall take temporary custody of the child as provided in A.R.S. § 8-821.
- C.** CPS shall document the placement alternatives considered and the reasons for not selecting the options listed in subsection (A).

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R6-5-5514. Removal Review

- A. Under A.R.S. § 8-822(3), within 48 hours of removing a child, and before filing a dependency petition, CPS shall have a removal review team assess alternatives to continued out-of-home placement, and the need for CPS to file a dependency petition.
- B. The removal review team shall include the CPS specialist who conducted the investigation and removed the child, and the CPS specialist's supervisor. The removal review team shall also include at least 1 other qualified professional such as a psychologist or counselor.
- C. The removal review team shall consider the factors listed in R6-5-5512 and R6-5-5513(A) to determine whether to return a child, pursue a voluntary placement option, or file a dependency petition.
- D. The team shall document, in the child's case record, alternatives considered and the reason for the action taken.
- E. Within 48 hours of removing a child, DES shall either file a dependency petition or return the child, as required by A.R.S. § 8-821.

R6-5-5515. Procedures for Investigations of Maltreatment in a Licensed Child Welfare Agency

- A. Before CPS investigates an allegation of maltreatment in a licensed child welfare agency ("agency"), the CPS Specialist shall advise the agency's chief executive officer, or that person's designee, of the following:
 - 1. The nature of the allegation.
 - 2. How CPS will conduct the investigation.
 - 3. The names of the agency staff members and children that the CPS Specialist plans to interview, and
 - 4. The rights listed in subsection (C).
- B. Notwithstanding subsection (A), CPS may conduct an unannounced investigation if:
 - 1. The agency's chief executive officer is the subject of a maltreatment allegation, or
 - 2. Prior notice of the investigation may jeopardize the safety of a child in the agency's care.
- C. When CPS investigates an allegation of maltreatment at an agency, the agency may:
 - 1. Seek legal counsel at any time during the investigation;
 - 2. Present information about the allegation before CPS issues a finding; and
 - 3. Receive:
 - a. An oral status report on the progress of an investigation not completed within 21 days;
 - b. A copy of the report with personally identifiable information redacted; and

c. Written notice of the investigation finding.

- D. The Department shall document the investigation and findings in an agency's licensing file.

R6-5-5516. Procedures for Investigations of Out-of-Home Care Providers

- A. In this Section an "out-of-home care provider" means:
 - 1. A child in the custody of the Department by court order or voluntary foster care under A.R.S. 8-806, and placed with:
 - a. An unlicensed non-relative,
 - b. An unlicensed relative,
 - c. A licensed family foster home,
 - d. A certified adoptive home; and
 - 2. A family child care home provider certified by the Department under A.R.S. § 46-807.
- B. A CPS Specialist shall notify the following of an investigation of an allegation of abuse or neglect by an out-of-home care provider:
 - 1. The parent or legal guardian of each child in the home;
 - 2. The case manager or supervisor for each child in the home;
 - 3. The attorney and guardian ad litem for each child in the home; and
 - 4. The provider's licensing or certification specialist.
- C. When CPS investigates an allegation of sexual abuse, a CPS Specialist shall audiotape or videotape all interviews.
- D. Unless a situation jeopardizes the safety of a child, a CPS Specialist shall consult with the following individuals before removing a child from an out-of-home care provider:
 - 1. The child's case manager or supervisor,
 - 2. The foster home licensing specialist or supervisor,
 - 3. The ACYF District Program Manager, and
 - 4. The Assistant Attorney General if the child is in the physical custody of the provider.
- E. CPS shall notify the parent or legal guardian of each child in the provider's care, the out-of-home care provider, and each child's case manager of the investigation findings.
- F. CPS shall hold a case conference in 3 days, if CPS intends to substantiate a report to discuss the investigation findings, and to determine the Department's recommendations regarding licensing.
- G. An out-of-home care provider may bring a person representing the provider's interests to the case conference after waiving the provider's right to confidentiality.
- H. The Department shall document the investigation and findings in the case record.

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APPENDIX 1. PRE-SCREENING CUE QUESTIONS:

1. May I have your name, phone number and relationship to the child? (Assure the reporting source they can remain anonymous. Explain that CPS will not be able to contact him/her for additional information without a name and phone number).
2. What is your concern about the child? How old is the child?
3. What is the family's home address? Does the child live there? If not, where can we locate the child, that is, school, day care, relative? Who is living in the home?
4. Do you know who abused or neglected the child? If so, who? (This includes staff of a licensed or certified DES facility or foster or child care home or a licensed DHS Level I, II, or III Behavioral Health Treatment facility). Do you know when he or she will see the child next?
5. Did the _____ (parent, guardian or custodian) know about the abuse or neglect?
6. Is the _____ (parent, guardian or custodian) letting the child see this person?

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APPENDIX 2. CUE QUESTIONS

IF IT IS DETERMINED TO HAVE ALL OF THE ELEMENTS OF A REPORT FOR FIELD INVESTIGATION (that is, a child victim, maltreatment by a parent, guardian, or custodian and the child can be located), CHECK CPSCR AND GATHER REPORT DEMOGRAPHICS.

Include the address of the child, the name of the apartment complex, trailer park and directions as needed.

PHYSICAL ABUSE CUE QUESTIONS:

1. Describe the injury (size, shape, color and location).
2. Do you know when the injury occurred? Has abuse occurred before? How often does the abuse occur?
3. Did the child say what happened?
4. Do you know if the child was seen by a medical doctor? If so, what is the name and phone number of the doctor? If the source is a medical doctor, is the injury consistent with the explanation?

If the call concerns a licensed or certified DES facility, foster or child care home or a DHS Level I, II or III Behavioral Health Treatment facility, ask:

5. Did the injury occur as a result of restraint?
6. What kind of restraint was used?
7. Why was the child restrained?
8. Will the staff person have contact with the child or other children in the facility?
9. Do you know the name of the licensing specialist? If so, what is the name and phone number?
10. Do you know the name of the child's case manager? If so, what is the name and phone number?

EMOTIONAL ABUSE CUE QUESTIONS:

1. Specifically, what is the person doing? (to have the impact on the child).
2. Have you noticed a change in the child's behavior?
3. What signs or behaviors is the child exhibiting?
4. Do you think the child's behavior is related to what the parent, guardian or custodian is doing? If so, how?
5. Do you know if the child has seen a medical doctor, psychologist, or mental health professional? If so, what is the name and phone number? Do you know the diagnosis?

NEGLECT CUE QUESTIONS:

A. INADEQUATE SUPERVISION

1. Is the child alone NOW? If yes, how long has the child been alone? Where is the person who is suppose to be watching the child? When will the person return? Have you called the police?
2. If the child is not alone, who is watching the child now? What are your concerns about the person who is watching the child?
3. Do you know how often and when this happens?
4. What happens when the child is alone or inadequately supervised?
5. Does this child know how to contact the parent, guardian or custodian?
6. Does the child have emergency numbers and know how to use the phone?
7. Do you know if anyone is checking on the child? If so, what is the name and phone number? How often?

If the call concerns a licensed or certified DES facility, foster or child care home or DHS Level I, II or III Behavioral Health Treatment facility, ask:

8. What supervision was being provided at the time of the sexual conduct or physical injury between the children?
9. Did the facility, foster or child care home know that the child may physically or sexually assault another child?
10. Did the staff, foster or child care home person know that the child may physically or sexually assault another child?
11. What steps were been taken to prevent the child from assaulting other children?
12. What steps are being taken to restrict contact between the child and other children?
13. Do you know the name of the licensing specialist? If so, what is the name and phone number?
14. Do you know the name of the child's case manager? If so, what is the name and phone number?

B. SHELTER

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1. When was the last time you saw the child or the home?
2. Describe any health or safety hazards where they live? Has anything happened to the child?
3. Do you know how long they have been in this situation?
4. Do you know why they live like this?

C. MEDICAL CARE

1. What are the child's symptoms?
2. Is the parent, guardian or, custodian aware of the problem?
3. Do you know when they last saw a medical doctor? Who was the medical doctor? If so, why?
4. Do you know the reasons the person is not getting medical care for the child?

If reporting source is a medical doctor or doctor's representative ask only the following questions:

5. What is the medical or psychiatric condition or diagnosis of this child and when did it begin?
6. What medical care is needed?
7. What will happen if the child does not receive the medical care?
8. What are your concerns about the parent, guardian or custodian response to the problem?

D. FOOD

1. What makes you believe the child is not getting enough food? Describe the physical condition of the child?
2. Do you know if someone else is feeding the child? If so, who?
3. When was the last time you saw the child or have you been in the home? If so, describe the food you saw.
4. Do you know if the child has seen a medical doctor? If so, what is the name and phone number?

E. CLOTHING

1. Describe what the child is wearing and the weather conditions?
2. What effect is it having on the child?

SEXUAL ABUSE CUE QUESTIONS:

1. Why do you think the child has been sexually abused or is at risk of sexual abuse? (activities, physical signs or behaviors)
2. Who saw these activities, signs or behaviors?
3. Has the child told anyone? If so, who and when?
4. What is the child saying about sexual abuse?
5. Do you know where and when this last occurred?
6. Do you know what contact this person has with the child?
7. Do you know if the child *has* seen a medical doctor? If so, what is the name and number?

ABANDONED CUE QUESTIONS:

1. Do you know where the parent is now?
2. When did the parent last have contact with the child?
3. When do you think the parent is coming back?
4. What arrangements did the parent make for care of this child?
5. How long are you able or willing to care for the child? Are there relatives available? If so, what
6. What is the name, address, phone number?

DRUG EXPOSED INFANTS CUE QUESTIONS:

1. Has the child or mother been tested? If so, what are the results?
2. What is the name of the medical doctor or hospital?
3. What is the parental history of drug use? (What drugs, when was last drug use, used during what trimester)?
4. What is the parental history of drug treatment?
5. Describe the medical and physical condition of the child?

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- a. Birth weight
- b. Gestational age
- c. Apgar score
- d. Prenatal care

6. Have preparations been made in the home for the new baby?

NON-SEXUAL EXPLOITATION CUE QUESTIONS:

1. Describe how the child is being exploited.
2. What reason was given for the exploitation?
3. How long has this been going on?

POTENTIAL ABUSE AND NEGLECT CUE QUESTIONS:

1. Describe behaviors (of the parent, guardian, custodian or child) that give you reason to believe that abuse or neglect may occur.
2. Has abuse or neglect happened before? If so, when and where?
3. Has the _____ (parent, guardian or custodian) expressed concerns about hurting or not being able to care for the child?

CLOSURE CUE QUESTIONS

1. Do you know what school or child care facility the child attends? If so, what is the name of the school or child care facility? Dismissal or pick-up time?
2. Has the child expressed concerns about going home? If so, what did the child say to you?
3. Has law enforcement been notified? DR or Badge number?
4. Does the child have any of these special needs or problems?
 - a. Abuse of drugs or alcohol
 - b. Bizarre behavior
 - c. Extremely angry or volatile
 - d. Physically ill
 - e. Mentally ill
 - f. Language other than English
5. Does the _____ (parent, guardian or custodian) have any of these special needs or problems:
 - a. Abuse of drugs or alcohol
 - b. Bizarre behavior
 - c. Extremely angry or volatile
 - d. Physically ill
 - e. Mentally ill
 - f. Language other than English
6. Do you know if CPS or any other agency has been involved with this family?
7. If this report is assigned for field investigation, are there any issues we need to be aware of to
8. ensure the worker's safety (guns, dogs)?